

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.18331 of 2017
Date of decision : 25.01.2023**

Raj Kumar

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Daljeet S. Kahlon, Advocate
for the petitioner.

Mr. Inderpreet S. Kang, Asstt. Advocate General, Punjab

PANKAJ JAIN, J. (ORAL)

Present writ petition has been filed under Article 226/227 of the Constitution of India seeking writ in the nature of certiorari against the order dated 21st of March, 2014 (Annexure P-7) passed by respondent No.4. whereby one year service of the petitioner has been ordered to be forfeited temporarily for annual increment and all the orders passed by other officials subsequent thereto.

2. Petitioner was working as Sub Inspector in the Police Department. On 9th of December, 2009 while he was posted as ASI, he was assigned a duty as Incharge to take one accused Gurpreet Singh @ Gopi for producing him before Court at Karnal along with Head Constable Manjit Singh, Constable Jagjit Singh and Constable Balbir Chand. When the petitioner along with accused Gurpreet Singh @ Gopi came out of the Jail, petitioner claims that they were attacked by 7-8 unidentified persons who

threw red chili in their eyes and attacked them with sharp-edged weapon i.e. *Datar* and succeeded in taking Gurpreet Singh @ Gopi away from police custody. Pursuant thereto FIR No.155 under Sections 307, 353, 186, 149, 149, 223, 224, 225 and 332 IPC, was registered at Police Station Division No.2, Jalandhar. On the basis of the aforesaid incident, the petitioner was chargesheeted. As per the inquiry report it was held as under :-

“After deeply perusing the charges in the departmental inquiry, statements of witnesses of complaint and written defence from the delinquent ASI Raj Kumar No.663/Jalandhar, from the facts it has been found that although from the facts of case registered against delinquent ASI Raj Kumar No.663/Jalandhar in case No.155 dated 10.12.09 u/s 307, 353, 186, 148, 149, 223, 224, 225, 332 IPC, P.S. Division No.2 Jalandhar, from the facts of inquiry have been found innocent. If ASI Raj Kumar No.663/Jalandhar, took the employees carrying ammunition with them and took the prisoner Gurpreet Singh @ Gopi out side the jail as per rules then it was not possible for prisoner Gurpreet Singh @ Gopi to run away from the custody of Police or he or any of his accomplices helping to run him away could have been apprehended, but ASI Raj Kumar No.663/Jalandhar being Incharge without the employees carrying ammunition by taking out Gurpreet Singh @ Gopi prisoner of serious offences out of the jail by providing him opportunity to run away have given proof of negligence and carelessness in his duty. That from the facts come to light during the inquiry the charges leveled against him in the departmental inquiry are proved.”

3. On the basis of the aforesaid inquiry report, impugned order of punishment was passed on 21st of March, 2014 which has been further

affirmed by the Appellate Authority vide order dated 24th of December, 2015 and further in revision counsel for the petitioner has emphatically argued that the petitioner ought not have been held guilty as he was not negligent in his duty. A vehicle was required to be provided to take aforesaid accused Gurpreet Singh @ Gopi which was not provided. Rather the petitioner suffered injuries in the aforesaid incident and remained admitted in hospital.

4. I have heard counsel for the parties and have gone through records of the case.

5. There is no challenge to the finding of the inquiry report in the instant writ petition. Apart from that the law w.r.t. judicial review of the inquiry report is well settled in **State of Karnataka and Anr. vs. Umesh, (2022) 6 SCC 563** wherein it has been held as under :-

“17. In the exercise of judicial review, the Court does not act as an appellate forum over the findings of the disciplinary authority. The court does not re-appreciate the evidence on the basis of which the finding of misconduct has been arrived at in the course of a disciplinary enquiry. The Court in the exercise of judicial review must restrict its review to determine whether: (i) the rules of natural justice have been complied with; (ii) the finding of misconduct is based on some evidence; (iii) the statutory rules governing the conduct of the disciplinary enquiry have been observed; and (iv) whether the findings of the disciplinary authority suffer from perversity; and (vi) the penalty is disproportionate to the proven misconduct.”

6. Keeping in view the aforesaid facts, this Court is of the considered opinion that the petitioner has been awarded minor punishment which cannot be said to be disproportionate to the charges levelled against the petitioner. Thus, there is no ground to entertain the instant writ petition while exercising writ jurisdiction is made out.

7. Consequently, the present writ petition is dismissed.

8. Pending application(s), if any, also stands disposed off.

January 25, 2023

Dpr

(PANKAJ JAIN)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No