

2023:PHHC:062912

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

CWP-19484-2021

Date of decision : 19.04.2023

Amrinder Singh

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. J.S. Maanipur, Advocate with
Ms. Harpreet Kaur, Advocate
for the petitioner.

Ms. Shivani Sharma, DAG, Punjab.

PANKAJ JAIN, J. (Oral)

Petitioner herein prays for issuance of a writ in the nature of certiorari seeking quashing of the inquiry report dated 10.07.2020 (Annexure P-2), order of punishment dated 30.08.2013 (Annexure P-4) and further orders passed by the Appellate/Revisional Authority affirming the same.

2. Petitioner alongwith Manijit Singh were chargesheeted jointly for having put doors of a Government quarter on fire. Inquiry was conducted and both were held to be guilty. Vide impugned order (Annexure P-4) dated 30.08.2013, the petitioner has been ordered to be dismissed from service, whereas the co-delinquent Manjit Singh was saddled with much lesser punishment of forfeiture of 05 years service with permanent effect vide order dated 14.08.2013.

3. Mr. Maanipur appearing for the petitioner apart from raising plea w.r.t. unfair inquiry submits that as per settled proposition

2023:PHHC:062912

of law, once two employees are charged jointly with common allegation, they cannot be discriminated while granting punishment. He thus submits that extreme punishment awarded to the petitioner would be disproportionate in the light of far lenient punishment awarded to Manjit Singh vide order dated 14.08.2013.

4. Per contra, counsel for the respondents-State submits that in fact the past record of the petitioner disentitled him from any discount. Reliance is being made to para No.4 of the preliminary objections which reads as under:-

“4. His appeal, revision appeal and mercy petition against the order of the dismissal from service have been rejected by Deputy Inspector General Police PAP-2 and Training Punjab Chandigarh, Inspector General of Police Jalandhar Cantt., Additional Director General of Police Armed Bns. Jalandhar Cantt., Director General of Police Punjab Chandigarh, Government of Punjab and Department of Home Affairs & Justice Punjab Chandigarh vide order no. 9936/A-3 dated 19-12-2013, (Annexure P-6) order dated 09-09-2015, (Annexure R-1) order dated 18-02-2016, (Annexure P-8) order No. 12684/E-2(2), dated 15-11-2016 (Annexure P-9) and memo no. 04/196/2017-(6H3)7H3/5019, dated 06-09- 2018, (Annexure R-2) memo no. 4/196/2017- (6H3)7H3/1603, dated 25-03-2019, (Annexure R-3) memo no. 4/196/2017-(6H3) 7H3/3814, dated 01-10-2020 (Annexure P-12) respectively and dismissed order has been confirmed by the all appellant authorities. Before dismissal from service petitioner previous service record was considered thoroughly by the then competent authority and found that he was not

2023:PHHC:062912

interested in his job and during a short span of service he was awarded many minor and major punishments. A short picture of bad entries/punishments awarded to him are given below:-

- i. Censure 14 times
- ii. Warning 04 times
- iii Non Duty Period 617 days
- iv. Service forfeited for 18 years with permanent effect for the increment purpose on different occasion.”

5. Faced with the situation, Mr. Maanipur submits that the said stand of the State further advances helps the case of the petitioner. The aforesaid past record of the petitioner was never put to him before passing order of punishment by considering the same.

6. Learned State counsel does not dispute the aforesaid factual assertions.

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

8. Law w.r.t. parity in the departmental proceedings and while awarding punishment is no more *res integra* and has been dealt by Apex Court in the case of ‘**Man Singh vs. State of Haryana and others**’ reported as **2008(12) SCC 331**, wherein the Apex Court held as under:-

“xx xx xx

The concept of equality as enshrined in Article 14 of the Constitution of India embraces the entire realm of State action. It would extend to an individual as well not only when he is discriminated against in the matter of exercise of right, but also in

2023:PHHC:062912

the matter of imposing liability upon him. Equal is to be treated equally even in the matter of executive or administrative action. As a matter of fact, the doctrine of equality is now turned as a synonym of fairness in the concept of justice and stands as the most accepted methodology of a governmental action. The administrative action is to be just on the test of 'fair play' and reasonableness. We have, therefore, examined the case of the appellant in the light of the established doctrine of equality and fair play. The principle is the same, namely, that there should be no discrimination between the appellant and HC Vijay Pal as regards the criteria of punishment of similar nature in departmental proceedings.”

9. Same is the view of Division Bench of this Court in the case of the *Chattar Singh vs. Haryana Vidyut Prasaran Nigam Limited* reported as *2002(1) RSJ 97*, wherein it has been held as under:-

“xx xx

As noticed above, all those who were in service against whom allegation of embezzlement had been established were inflicted with the punishment of stoppage of increments with cumulative effect, whereas for the same allegations those who had retired from service were inflicted the punishment of cut in pension. The charge against the petitioner is not of embezzlement but is only of negligence and/or dereliction in the discharge of duties. Certainly a punishment graver than the punishment inflicted upon the employees against whom the charge of embezzlement was proved, could not have been inflicted upon him.

2023:PHHC:062912

8. The conclusion drawn above is also in consonance with the judgments relied upon by the learned counsel for the petitioner. In ***Parboth Sagar v. Punjab State Electricity Board, Patiala, 1997(3) RSJ 194 : 1997(3) SCT 383***, this Court in paragraph 23 opined that a person who according to the authorities was merely negligent could not be more guilty than a person who had actually committed embezzlement. In the instant case, the only allegation against the petitioner is of negligence in the discharge of his duties. He can certainly not be inflicted a punishment which is more stringent than the punishment inflicted on those who have been found to be guilty of embezzlement. Learned counsel for the petitioner has also placed reliance on the decision rendered by this Court in ***N.C. Arora v. State of Haryana, 1997(1) SCT 206***. In the aforesaid case three officials had been charged with negligence in respect of a transaction which had resulted in loss to the Government. The Punishing Authority inflicted upon one of the three officials the punishment of stoppage of two increments; against another, the Punishing Authority passed an order of recovery of a part of the loss; whereas against the petitioner, the Punishing Authority passed the order of dismissal from service. On the basis of the facts in the aforesaid case, this Court arrived at the conclusion that the Punishing Authority had acted unfairly. Consequently, the order of punishment was quashed with liberty to the Government to take a fresh decision in accordance with law.”

10. In view of the aforesaid, this Court finds that once the charging authority as well as the inquiry officer were *ad idem* vis-a-vis

2023:PHHC:062912

the parity in the misconduct of the delinquent, the punishing authorities ought not have acted discriminately qua petitioner. The petitioner in any circumstance ought not have been saddled with the punishment graver than one granted to Manjit Singh.

11. Consequently, the present writ petition is allowed. Petitioner awarded to the punishment is reduced to the one equivalent as granted to Manjit Singh.

12. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

19.04.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	Yes