

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

LPA-1185-2015 (O&M)

Date of reserved:-16.10.2023

Date of Pronouncement: 08.11.2023.

Rama Shanker Mishra

....Appellant.

Versus

Union of India and others

...Respondents.

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CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL  
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

.....

Argued by: Mr. J.C. Malik, Advocate for the appellant.

None for the respondents.

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SUKHVINDER KAUR, J.

This Intra Court Appeal has been preferred against the judgment dated 26.09.2012 passed by a learned Single Judge of this Court, whereby CWP-19239-2012 filed by the appellant has been dismissed.

2. The brief facts of the case are that the appellant was appointed as a Constable in the Central Reserve Police Force (for short, "CRPF") on 03.10.1985. The appellant was deputed at Pulwama in the State of Jammu and Kashmir and on 08.06.1998 he was on guard duty at the residence of Superintendent of Police (Operations) Pulwama. While he was on duty, two persons alongwith a lady were seen on the road and they stopped there. Becoming suspicious he called them near his beat and questioned their identity. The said two persons disclosed that they were drivers and the lady

was also going with them. The appellant took identity cards of those two persons and made them leave. He then went to New Hilal Hotel and left the girl there. In the meantime two JKP officials who were also working with SP (OPS) came to Hawaldar Vidhyadar Singh and awakened him and asked him as to where was the sentry. Then Hawaldar Vidhyadar Singh came out of the guard room and found that the appellant was not at his place of duty at that time. It was at about 21:50, when Vidhyadar Singh was looking for the appellant and the appellant was seen coming from the road side. It was the time to relieve the appellant from guard duty so CT-R.S. Mishra was deputed on guard duty and the appellant went to his bed at about 12:00 hours. Then the appellant left his bed and went to the road and stood there. Thereafter, he came to CT Ranbir Singh and told him that he was going to a hotel. Upon that CT-Ranbir Singh asked him to take prior permission from the guard commander. The appellant went to New Hilal Hotel and asked to give him a room in the hotel as his wife had come or to arrange a room for him from somewhere else. When the hotel owner did not give him room on rent, then he came to the guard room alongwith the aforesaid girl. In the guard room both JKP Officials also came and enquired from the guard commander that for which purpose the girl had come to the guard room. The guard commander asked the appellant to make the girl leave the said place, otherwise he would report the matter to the commandant. Then the appellant went out and after leaving the girl came back after 10 minutes. The guard commander did not report the matter in good faith to his Superior Authorities as the appellant had left the girl after being directed to do so. Thereafter, letter dated 15.06.1998 was received by the Commandant from DSP Headquarters, Pulwama alleging therein that on 08.06.1998 CT-R.S.

Mishra had detained two drivers and a girl during his duty period from 21:00 to 24:00 hours and after taking I.D. Cards from the drivers he had let the drivers go, but detained the girl in the guard room with bad intentions and since then the said girl was missing. A case in this regard had been registered in the Police Station, Pulwama and the local police was investigating the matter. On the basis of the said letter the appellant was suspended vide order dated 21.06.1998 and a departmental inquiry was initiated against him.

After holding of inquiry, an inquiry report dated 15.09.1998 was submitted and the appellant was held partly guilty of the charges levelled against him. The appellant submitted his objections dated 01.09.1998 and 15.11.1998 against the report of the inquiry Officer. Thereafter, through order dated 25.11.1998, the Punishing Authority i.e. Commandant 128 Battalion CRPF, Jalandher imposed upon the appellant the punishment of dismissal from service. The appellant preferred an appeal against the said order of dismissal but his appeal was dismissed by the Additional Deputy Inspector General of Police, CRPF, Jalandhar vide order dated 19.02.1999 and the revision preferred by the appellant against the said order was also rejected by Additional Director General, North-West Zone, CRPF vide order dated 06.09.1999. CWP No.27776-1999, was then filed by the appellant in the Allahabad High Court which was held to be not maintainable due to lack of jurisdiction and accordingly dismissed on 01.05.2005. Liberty was granted to the petitioner to approach the appropriate Court for necessary relief. Thereafter, respondent filed CWP-19239-2012 before this Court, which was dismissed by learned Single Judge vide judgment dated 26.09.2012. Hence, the present Intra Court Appeal.

3. Learned counsel for the appellant has been heard and with his assistance the record of the case has also been perused.

4. Learned counsel for the appellant has contended that all the departmental authorities lost sight of the important aspects of the case and passed orders without any basis and without any evidence on record. He has further contended that from the statement of the witnesses it is not proved that the appellant remained absent from his duty post. No complaint by the department had been filed and only letter dated 15.06.1998 was made the basis of the inquiry. A story was cooked up by the authorities, only to harm the appellant and respondent No.5 imposed the punishment of removal upon the appellant without any basis or evidence. Respondent No.5 also did not apply his mind judicially and had not given due weightage to the evidence adduced by the appellant. He also submitted that the learned Single Judge failed to appreciate that since the charges against the appellant had not been completely proved so the punishment of removal given to the appellant did not commensurate with the levelled charges and that the orders passed by the authorities and the learned Single Judge were not sustainable and therefore liable to be set aside.

5. The main thrust of the arguments of learned counsel for the appellant is that the evidence adduced during the inquiry has not been properly appreciated by the inquiry Officer. All the witnesses had stated that the appellant was found present on duty, so there was no occasion for the appellant to go to Hilal Hotel alongwith a girl as alleged and as such the entire proceedings and inquiry conducted by the respondent were mala fide, illegal and unwarranted in the eyes of law.

6. However, it has been rightly held by the learned Single Judge

that the law in this respect is well settled by the Apex court through a catena of judgments that in exercise of its writ jurisdiction the High Court should not sit over the inquiry proceedings as an Appellate Authority and determine as to whether the conclusions drawn by the Inquiry Officer on the basis of the adduced evidence are correct or incorrect.

7. In **State of Andhra Pradesh and others Vs. Sree Rama Rao, AIR 1963 SC, 1723**, the Apex Court has held that

*“.....The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence.....”*

8. In **Union of India and others Vs. P. Gunasekaran, AIR 2015 Supreme Court 545**, the High Court set aside the order of the Central Administrative Tribunal, interfered with the findings of the inquiry Officer, and after setting aside the punishment directed reinstatement with backwages as also all service benefits. The Union of India aggrieved against the same went to the Apex Court. The relevant finding given by the Hon'ble

Apex Court in this context is extracted below:-

*“Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the inquiry officer. The finding on Charge no. I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Article 226/227 of the Constitution of India, shall not venture into re-appreciation of the evidence. The High Court can only see whether:*

- a. the inquiry is held by a competent authority;*
- b. the inquiry is held according to the procedure prescribed in that behalf;*
- c. there is violation of the principles of natural justice in conducting the proceedings;*
- d. the authorities have disabled themselves from reaching at a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- e. the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- f. the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- g. the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- h. the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*
- i. the finding of fact is based on no evidence.*

***Under Article 226/227 of the Constitution of India, the High Court shall not:***

- (i). re-appreciate the evidence;*
- (ii). interfere with the conclusions in the inquiry, in case the*

*same has been conducted in accordance with law;*  
*(iii). go into the adequacy of the evidence;*  
*(iv). go into the reliability of the evidence;*  
*(v). interfere, if there be some legal evidence on which findings can be based.*  
*(vi). correct the error of fact however grave it may appear to be;*  
*(vii). go into the proportionality of punishment unless it shocks its conscience.”*

In many subsequent decisions of the Hon'ble Apex Court these afore principles have been consistently followed.

9. In the present case, a regular departmental inquiry was conducted against the appellant and the inquiry Officer held the appellant guilty of the charges levelled against him. While agreeing with the findings of the Inquiry Officer, the disciplinary authority of the appellant, imposed upon him the punishment of dismissal from service. The Appellate Authority and the Revisional Authority also upheld the said punishment thereby endorsing the view taken by the Inquiry Officer, after considering the entire record.

10. Learned counsel for the appellant has not been able to point out any procedural irregularity committed during the course of the inquiry. Rather, findings of the authorities are found to be duly supported and substantiated by the evidence which was produced during the inquiry. There is also nothing on the record that there was any non-compliance of any of the principles of natural justice.

11. Thus, the learned Single Judge has rightly held that the conclusion arrived at by the authorities holding the appellant guilty on the basis of findings recorded by the Inquiry Officer, on the face of it, is not

a conclusion especially when there was no violation of any of the principles of natural justice or any applicable statutory regulations.

12. In the light of the above, the learned Single Judge is found to have considered the matter in the right perspective. There is no illegality or perversity in the impugned judgment warranting any interference.

13. Dismissed.

14. All pending applications, if any, also stand disposed of accordingly.

**(DEEPAK SIBAL)**  
**JUDGE**

**(SUKHVINDER KAUR)**  
**JUDGE**

**08.11.2023**

*Komal*

Whether speaking/reasoned? : Yes/ No  
Whether reportable? : Yes/ No