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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-24592-2023 (O&M)
Date of Decision: 02.11.2023

Suneet Kumar

. . . . Petitioner

Vs.

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Namit Gautam, Advocate, for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. Learned counsel for the petitioner submits that the Inquiry Officer while conducting the inquiry went beyond the allegations, and held the petitioner guilty of having assisted the authority and resultantly seven vehicles went out from the brewery and one vehicle entered the brewery. The said allegation was not a part of the charge-sheet and the petitioner has been punished for the said allegation too.
2. I have considered the submissions.
3. This Court finds that the disciplinary authority has, after considering the reply filed by the petitioner to the inquiry report, held the petitioner guilty of being absent from duty at the time of checking of the brewery. The petitioner admits of being absent from duty on account of personal reasons. The disciplinary authority also observes that the Inquiry

Officer has also proved the charge leveled against the petitioner. Thus, the disciplinary authority has been careful enough to hold the petitioner guilty of only the charges which were leveled against him. There is no extraneous charge for which the petitioner can be said to have been held guilty or punished, considering that the petitioner was absent from duty at the time of checking of the brewery which he has admitted. The disciplinary authority had proceeded to punish him under Rule 5(V) of the Punjab Civil Services (Punishment and Appeal) Rules, 1970, stopping of two annual grade increments with cumulative effect.

4. The scope of interference in departmental proceedings is limited. The law has been settled in the case of *Union of India & Ors. v. P. Gunasekaran reported in (2015) 2 SCC 610*, wherein it was held as under:

“12. 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 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 Articles 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 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 13.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.

13. Under Articles 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.” We are in agreement with the findings and conclusion of the Disciplinary Authority as confirmed by the Appellate Authority and Revisional Authority on Charge No. 1. Indiscipline on the part of a member of an Armed Force has to be viewed seriously. It is clear that the Respondent had intentionally disobeyed the orders of his superiors and deserted the Force for a period of 5 days. Such desertion is an act of gross misconduct and the Respondent deserves to be punished suitably.”

- 5. Keeping in view above, this Court finds that the petitioner was given fair opportunity to defend himself and he has been punished only for the delinquency which has been accepted by him.
- 6. No case for interference is made out.
- 7. Writ Petition is *dismissed* accordingly.
- 8. All pending applications also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

November 02, 2023

Mohit goyal

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |