

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No. 1577 of 2023 (O&M)

Date of Decision: 29.02.2024

Mohan Singh and another

.....Appellants

versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA, ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI, JUDGE

Present : Dr. Naresh Kaushik, Advocate, for the appellants.

Mr. Saurav Khurana, Addl. Advocate General, Punjab.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (oral)**CM No. 4026-LPA-2023**

For the reasons mentioned in the application, delay of 100 days in filing the appeal is condoned. Application stands dispose of.

LPA No. 1577 of 2023

The consideration in the present appeal is to the order dated 24.04.2023 passed against the appellants-petitioners in Civil Writ Petition No. 5062-2016 whereby the learned Single Judge dismissed the writ petition filed by the appellants-petitioners upholding the orders of punishment dated 15.04.2009 and 12.08.2015 (Annexures P-2 & P-1) vide which one annual increment with future effect was stopped qua appellant-petitioner No.1 and two annual increments with future effect were stopped qua appellant-petitioner No.2.

2. The argument raised on behalf of the writ petitioners that there was no loss to the State Government as the compounding fee had already been deposited, had been rejected by the learned Single Judge by noticing that the compounding fee had been recovered from the alleged violators and the appellants had not deposited the fee from their own pocket and therefore, the defence of double jeopardy was not available to them. It was noticed by the learned Single Judge that the appellants being the officials of the forest department had failed to take action against the violators despite specific orders from their superior officials.

3. We have gone through the paper book. It is not disputed that an enquiry has been held against the appellants and one Mandeep Singh, Forest Guard with the allegations of misconduct etc. The Enquiry Officer i.e. the Forest Divisional Officer, while discussing the roles of the two appellants separately, had come to the conclusion that the allegation for not initiating complete proceedings with regard to violation of Forest Conservation Act, 1980 and also not initiating action regarding loss caused to the forest property due to fire, was proved against appellant No.2 and not against the appellant No.1. In the enquiry, the allegation of gross negligence while performing their duties and violating the orders of senior officers, was proved against appellant No.1 and partly against appellant No.2. In such circumstances, the punishment order had been passed against them after supplying the enquiry report to the employees. Their appeal was also dismissed.

4. The violation as such of gross negligence regarding non initiation of appropriate proceedings under the Forest Conservation Act, 1980 had been done and therefore, we are of the considered opinion that the argument which is raised as such had rightly been repelled by the learned Single Judge.

5. There was also a finding by the Enquiry Officer with regard to the allegation against the appellants that a show room owner had been permitted to construct a passage by encroaching upon the forest land in front of the show room and after paying the compensation the owner had applied for approval with the Divisional Office. The loss had been caused to the trees up to their crown which had been reduced to ground and added into minimal loss was kept in mind. It was also recorded by the Enquiry Officer that the appellants had compounded the case by showing it general illegal possession but not vacated the illegal possession.

6. The power of judicial review as such is limited to the extent whether the procedure followed is correct and it is not for this Court to delve into the factual matrix as such regarding the quantum of punishment. Reference can be made to the judgment of the Apex Court in ***Union of India and others vs. Subrata Nath 2022(16) Scale 828*** to contend that dismissal in departmental enquiry is not liable to be interfered until such findings are patently perverse or grossly incompatible with the evidence on record. The relevant part reads as under:-

“22. To sum up the legal position, being fact finding authorities, both the Disciplinary Authority and the Appellate Authority are vested with the exclusive power to examine the evidence forming part of the inquiry report. On finding the evidence to be adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct. However, in exercise of powers of judicial review, the High Court or for that matter, the Tribunal cannot ordinarily reappreciate the evidence to arrive at its own conclusion in respect of the penalty imposed unless and until the punishment imposed is so disproportionate to the offence that it would shock the conscience of the High Court/Tribunal or is found to be flawed for other reasons,

as enumerated in [P. Gunasekaran](#) (supra). If the punishment imposed on the delinquent employee is such that shocks the conscience of the High Court or the Tribunal, then the Disciplinary/Appellate Authority may be called upon to re-consider the penalty imposed. Only in exceptional circumstances, which need to be mentioned, should the High Court/Tribunal decide to impose appropriate punishment by itself, on offering cogent reasons therefor.”

7. Reliance was also placed upon another judgment of the Apex Court in *B.C.Chaturvedi vs. Union of India and others 1996(1) SCT 617*, wherein it was held that the Court can interfere only if punishment was found shockingly disproportionate and to do complete justice.

8. Even otherwise, we are of the considered view that entrusting with the task of protecting the environment, the appellants apparently have defaulted in their duties, due to which departmental action has been taken against them and they have been punished.

9. In these circumstances, it is not for this Court to substitute its opinion and set aside the punishment order as prayed for. Resultantly, there is no merit in the appeal and the same stands dismissed.

(G.S.SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

29.02.2024

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No