

**CWP-17007 of 2020****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CWP-17007 of 2020****Date of decision : January 16, 2025****ASI Shir Niwas No.35/JJR****..... Petitioner****Versus****State of Haryana and others****..... Respondents****CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL*********

Present :-Mr. Aditya Yadav, Advocate
for the petitioner.

Mr. Raman Sharma, Addl. A.G.Haryana.

*********JAGMOHAN BANSAL, J. (ORAL)**

1. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking setting aside of the departmental enquiry dated 30.01.2019 (Annexure P-1), order dated 27.02.2019 (Annexure P-2) whereby he was awarded punishment of stoppage of two annual increments, order dated 14.06.2019 (Annexure P-4) whereby appellate authority dismissed his appeal and order dated 05.08.2020 whereby revisionary authority dismissed his revision.

2. Mr. Aditya Yadav, counsel for the petitioner submits that petitioner was complainant in FIR No.120 dated 14.06.2018 registered under Section 61-1-14 of Excise Act and Section 420 of IPC. He could not be Investigating officer in the said FIR still SHO on account of lapse on the part of Head Constable Kuldeep Singh asked him to



take over the file and complete the investigation. He, in view of oral instructions of SHO took over the file, however, could not complete the investigation because he was transferred on 18.08.2020. Being complainant, he could not deposit samples and thereafter complete investigation. It was Kuldeep Singh, Head Constable who was Investigating Officer. No action was taken against him but petitioner was made scape goat and awarded punishment of stoppage of two annual increments without cumulative effect. He preferred appeal and appellate authority has passed the impugned order mechanically. The appellate authority as well as the revisionary authority have not considered submissions of the petitioner. It was categorically pointed out that he is the complainant thus can not be Investigating Officer. No lapse was on his part. The authorities have not considered the matter in true spirit and punished him.

3. Mr. Raman Sharma, Addl. Advocate General Haryana submits that revisionary authority has considered submissions of the petitioner, though appellate authority did not pass speaking order and adverted to submissions of the petitioner.

4. The petitioner since the initiation of enquiry is claiming that he was not the Investigating Officer as he was complainant in the aforesaid FIR. He was orally asked to investigate the matter because Kuldeep Singh Investigating Officer was not doing his duty properly. He despite being complainant helped the Investigating Officer still he has been awarded punishment for lapse on the part of Kuldeep Singh.



The Appellate and Revisionary authority have not traversed submissions of the petitioner.

5. As per Rule 16.31 of Punjab Police Rules as well as settled principles of law, the appellate authority was bound to traverse submissions of the petitioner and record specific findings. The authorities have mechanically decided appeal/revision and upheld order of Punishing authority.

6. From the perusal of orders of appellate and revisionary authority, there is no reason to form second opinion that authorities have not adverted to submissions of the petitioner. The orders cannot be called as speaking orders. It is settled law that appellate authority is bound to consider submissions of the appellant and pass reasoned/speaking order.

7. In the wake of above discussion and findings, this Court is of the considered opinion that matter needs to be re-examined by authorities. To cut the litigation short, I do not find it appropriate to remand the matter back to appellate authority, thus, matter is remanded back to Revisionary authority to pass a fresh speaking order after granting an opportunity of hearing to the petitioner.

8. The wirt petition is disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

January 16, 2025
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Whether speaking/reasoned	Yes
Whether Reportable :	No