CENTRAL ADMINISTRATIVE TRIBUNAL,

CHANDIGARH BENCH

O.A.NO.060/00839/2016 Orders pronounced on:13.09.2018
(Orders reserved on: 31.08.2018)

CORAM: **HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &**
HON'BLE MS. P. GOPINATH, MEMBER (A)

HC Charanjit Singh age 50 years S/o Mohinder Singh r/o # 16, Police Complex, Sec. 39-D, Chandigarh.

Applicant

(**BY: MR. ASHOK BHARDWAJ, ADVOCATE)**

Versus

1. Chandigarh Administration
   through Secretary Home,
   UT Secretariat,
   Sector-9,
   Chandigarh.
2. Inspector General of Police,
   Police Headquarter,
   Sector-9,
   Chandigarh.
3. Deputy Inspector General of Police,
   Police Headquarter, Sector-9,
   Chandigarh.
4. Senior Superintendent of Police,
   Police Headquarter, Sector-9,
   Chandigarh.

(**BY : MR. ASEEM RAI, ADVOCATE)**

Respondents

O R D E R
HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

1. The applicant has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985, seeking quashing of impugned orders dated 20.7.2015 (Annexure A-4), 13.4.2015 (Annexure A-3) and 26.12.2014 (Annexure A-2), vide which punishment of forfeiture of 2 years of approved services for increment purpose, with permanent effect, has been imposed by Disciplinary Authority and maintained by the Appellate & Revisional Authority.

2. The facts of the case, which led to filing of the instant Original Application, are that applicant was charge sheeted under rule 16.24 of Punjab Police Rules, for having misbehaved under the influence of liquor, on duty, upon a complaint of a Truck Driver. The Enquiry Officer held the applicant guilty of the charge, during the proceedings based on statements of the witnesses, circumstances and preponderance of evidence. The applicant was issued a show cause notice dated 1.12.2014, as to why the indicated punishment be not imposed upon him. He submitted a reply to the same. However, disagreeing with the defence taken by him, the disciplinary authority imposed the penalty of forfeiture of two years of approved service for increment purpose with permanent effect upon him. The applicant submitted an appeal dated 2.2.2015 and finding that the act was grave misconduct, the appeal was dismissed by appellate authority vide order dated 13.4.2015 (Annexure A-3). The Revision Petition filed by him too was dismissed vide order dated 20.7.2015 (Annexure A-4). Hence, the O.A.

3. The respondents have filed a detailed reply. They submit that there is no violation of principles of natural justice. A proper enquiry was conducted in which applicant was given full opportunity to defend himself and after considering the relevant material, the appropriate penalty has been imposed upon him. The impugned orders passed by the authorities are perfectly in accordance with the rules and law.

4. We have heard the learned counsel for the parties at length and examined the material on file minutely.

5. Though a number of grounds qua legality of the impugned orders and proceedings have been taken in the O.A. but the learned counsel for the applicant made a statement at the bar that he would restrict his claim to challenge regarding proportionality of the punishment imposed upon the applicant. He argues, that though no charge is made out against the applicant, yet even if it is admitted for sake of argument only, the applicant has earned number of good entries to his credit in service record, so a light punishment should have been imposed upon him. This was resisted by the learned counsel for the respondents on the ground that the applicant being a member of disciplined force, having consumed liquor on duty and conducted misconduct, has rightly been punished by the authorities.

6. We have considered the submissions made on behalf of both sides carefully.

7. It is not in dispute that a proper enquiry has been conducted and based on preponderance of evidence, the charge of being under influence of liquor on duty was proved by the Enquiry Officer and the Disciplinary Authority imposed the

indicated penalty, which has been upheld by Appellate and Revisional Authority. It has categorically been found by the authorities that conduct of the applicant was grave one, more so, when he is member of a disciplined police force.

8. It is by now well settled law that it is for the disciplinary authorities to decide on the punishment and the courts or Tribunals should not interfere with the same unless it is found that the same pricks the conscience of a prudent man. In other words, there is no complete bar in interference by a court of law or Tribunal in quantum of penalty upon a delinquent employee and such interference is dependent upon case to case basis. It has been held that ordinarily the court or tribunal cannot interfere with the discretion of the punishing authority in imposing particular penalty but this rule has exception. If the penalty imposed is grossly disproportionate with the misconduct committed, then the court can interfere.

9. In the case of **ALEXANDER PAL SINGH VS. DIVISIONAL OPERATING SUPERINTENDENT** (1987) 2 ATC 922 (SC), the railway employee on being charged with negligence in not reporting to the railway hospital for treatment was removed from service. The Hon'ble Supreme Court thought it fit to interfere with the punishment of removal from service and modified it to withholding of two increments.

10. In the case of **UNION OF INDIA VS. GIRIRAJ SHARMA** AIR 1994 SC 215, a member of the Central Reserve Police who only because he overstayed the leave for twelve years for which had sufficient reason and had no intention to willfully disobey the order was dismissed from service, the High Court on the

interpretation of s.11 (1) of the Central Reserve Police Force Act, 1949 quashed the dismissal order and reinstated him with all consequential benefit. The Central Government moved the Hon'ble Supreme Court in appeal by special leave. Their Lordships in the facts of the case has held the dismissal to be harsh, upheld the order of reinstatement of service but gave liberty to the Government to impose any minor penalty for such misconduct. One can go on citing such decisions, but fact remains that there is no complete bar in interference with a penalty imposed upon an employee.

11. Similarly, the three bench judgment of the Hon'ble Supreme Court in **B. C. CHATURVEDI VS. UNION OF INDIA** (1995) 6 SCC 749 has held that even though the Court/Tribunal, while exercising the power of judicial review cannot normally substitute their own conclusion on penalty and impose some other penalty, if the punishment imposed by the disciplinary authorities shocks the conscience of the High Court or the Tribunal it would be appropriate to grant the relief either directing the disciplinary, or the appellate authority to reconsider the penalty or to shorten the litigation, it may itself, in exceptional and rare cases, imposed appropriate punishment with reasons in support thereof.

12. In the case of **V. RAMANA V. S.P. SRTC AND OTHERS** 2005(4) SCR 353, after referring to a large number of judgments, it was held :-

> "The common thread running through in all these decisions is that the Court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the Court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in the Wednesbury's case (supra) the Court would not go into the correctness of the choice made by the administrator open to him and the Court should not

> substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision."

13. In the case of **STATE OF MEGHALAYA & ORS. V. MECKEN SINGH N. MARAK**, AIR 2008 SC 2862, it was held that a Court or a Tribunal while dealing with the quantum of punishment has to record reasons as to why it is felt that the punishment is not commensurate with the proved charges. In the matter of imposition of sentence, the scope for interference is very limited and restricted to exceptional cases. The punishment imposed by the disciplinary authority or the appellate authority unless shocks the conscience of the court, cannot be subjected to judicial review.

14. In the case of member of a disciplined police force relating to CRPF, the Hon'ble Court in the case of **UNION OF INDIA VS. DILER SINGH**, 2016 (13) SCC 71, has refused to interfere in the quantum of penalty and has held as under :-

> "23. We are inclined to think so as a member of the disciplined force, the respondent was expected to follow the rules, have control over his mind and passion, guard his instincts and feelings and not allow his feelings to fly in fancy. It is not a mild deviation which human nature would grant some kind of lenience. It is a conduct in public which has compelled the authority to think and, rightly so, that the behaviour is totally indisciplined.
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> The respondent, if we allow ourselves to say so, has given indecent burial to self-control, diligence and strength of will-power. A disciplined man is expected, to quote a few lines from Mathew Arnold:- "We cannot kindle when we will The fire which in the heart resides, The spirit bloweth and is still, In mystery our soul abides: But tasks in hours of insight will'd Can be through hours of gloom fulfill'd. Though the context is slightly different, yet we have felt, it is worth reproducing."

15. Considering the facts of the instant case and the law declared on the issue by the Hon'ble Apex dispensation, we do not find any case made out to interfere with the impugned orders, on quantum of penalty, and as such O.A is dismissed being bereft of any merit. However, the parties are left to bear their own respective costs.

(SANJEEV KAUSHIK)
MEMBER (J)

(P. GOPINATH)
MEMBER (A)

Place: Chandigarh.
Dated: 13.09.2018

HC*