

(2013) 12 P&H CK 0211
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 6334 of 2012

Amar Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 06-12-2013

Acts Referred:

Citation : (2014) 3 SCT 401

Hon'ble Judges : Rajiv Narain Raina, J

Bench : Single Bench

Final Decision : Disposed Off

Judgement

Rajiv Narain Raina, J.—The petitioner was inflicted with penalty of stoppage of one increment with temporary effect. This minor punishment was imposed by the Superintendent of Police, (Telecommunications), Haryana, Panchkula. The petitioner filed an appeal against the order of punishment. While the appeal was pending, the Inspector General of Police, who was the appellate authority, issued a show cause notice to the petitioner as to why the penalty imposed should not be enhanced. The show cause notice was replied to by the petitioner but his defence was not found satisfactory and he was inflicted with major punishment of stoppage of two annual grade increments with permanent effect and the minor penalty was converted into a major one. Aggrieved by the imposition of major penalty and enhanced punishment, the aggrieved petitioner sought his remedy in revision before the Additional Director General of Police, Haryana, Panchkula. The Additional Director General of Police, Haryana-cum-Revisional Authority, has passed a non-speaking order dated 09.08.2011 which does not disclose the process of reasoning to justify the conclusion arrived at. The operative part of the order reads as follows:-

"I have carefully gone through the departmental enquiry file and other relevant documents. The departmental enquiry has been held as per procedure laid down in PPR and does not suffer any legal infirmity. Various pleas raised by the appellant are without any substance. The reviewing authority rightly reviewed

the order passed by the Punishing authority and considered all points raised by the appellant in his speaking order. The punishment awarded to the appellant is commensurate with the misconduct committed by him. Keeping in view the above facts, I find no mitigating circumstances to interfere with the orders of the Reviewing authority. I, therefore, reject the appeal of HC Amar Singh No. 1620/C, being devoid of merit."

2. A reading of the order leaves much to be desired coming from a quasi judicial authority sitting in re-visional jurisdiction.

This is a case where the appellate Authority had suo motu issued show cause notice, heard the petitioner and increased the penalty from minor to major. Then in such circumstances, it was all the more incumbent upon the revisional authority to have considered and dealt with broadly the issues raised by the petitioner in the revision petition and in response to the show cause notice as it was inflicted for the first time. The revision became by nature like a first appeal. If the order of the revisional authority dated 09.08.2011 is an order of affirmation, even then, it would require at least a modicum of application of mind so that on judicial review this Court would be in a better position to review such order to know what really weighed in the mind to hold accordingly.

3. The revisional authority could not have depended entirely on what the appellate Authority did as though it was performing an empty formality. Merely because the petitioner has been heard by the revisional authority would not add any greater weight to the decision. The impugned order falls far short of what was expected from a revisional authority acting virtually as a first appellate authority against enhanced punishment and for this reason and after having heard Mr. Namit Kumar, learned counsel for the petitioner and Mr. Harish Rathee, Sr. DAG, Haryana for the State, I would allow this writ petition, set aside the revisional order dated 09.08.2011 (Annexure P-9) and remit the matter back to the Additional Director General of Police, Haryana-cum-Revisional Authority to pass a fresh reasoned and speaking order after affording an effective opportunity of hearing to the petitioner.

4. In view of the nature of the order passed, nothing said herein will be taken as an expression of opinion on the merits of the case which are left to be decided alone by the Administrator-cum-revisional authority.

5. With the above observations and directions, this writ petition stands disposed of. Let this exercise be done and concluded within three months from the date of receipt of certified copy of this order.