

(1987) 12 P&H CK 0006

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 925 of 1987

Karnail Singh

APPELLANT

Vs

State of Punjab and anr.

RESPONDENT

Date of Decision : 03-12-1987

Acts Referred:

Citation : (1988) 1 RCR(Criminal) 269

Hon'ble Judges : K.S.Bhalla, J

Advocate : Sheila Didi, D.D. Sharma, Advocates for appearing Parties

Judgement

K.S. Bhalla, J.

1. Petition Karnail Singh, a lifer of Central Jail, Patiala applied for temporary release on parole under section 3 of the Punjab Good Conduct (Temporary Release) Act, 1962 (in short the Act) but the said benefit allegedly has been denied to him on the basis of some jail offence alleged to have been committed by the petitioner on 3.3.1987. He has filed present writ petition challenging the jail punishment awarded to him on 3.3.1987 which according to him deserves quashing for various reasons provided in para No. 8 of the petition and has further prayed that the authorities be directed to release him on parole for six weeks.

2. In the written statement filed on behalf of the respondents, it is said that petitioner committed a jail offence on 3.3.1987 and was punished by the Superintendent, Central jail, patiala for which reason he is not entitled to be released on parole. It is further stated that on 3.3.1987 the petitioner quarrelled with his coprisoner Randhir Singh and injured him as a result of which he was punished and that on the basis of that punishment the petitioner was not eligible for parole meaning thereby that his case for parole was never considered by the authorities on account of jail punishment awarded to him on 3.3.1987.

3. Amongst various grounds on the basis of which the jail punishment has been challenged it has been said in clause (e) of para 8 of the petition that no judicial

appraisal was obtained with regard to the said punishment. In reply to the said clause in para 8 of the written statement it has simply been said "No comments, being legal". The only possible inference from this reply is that the factual position stands admitted and with regard to legal position respondents were not in a position to offer any comments. In the absence of confirmation from the Sessions Judge concerned, it cannot be said that judicial appraisal with regard to the punishment in question was made. In fact no judicial appraisal is forthcoming. It cannot be disputed that no punishment can be awarded to a prisoner without judicial appraisal of the Sessions Judge in view of *Sunil Batra v. Delhi Administration*, A.I.R. 1980 SC 1579. The jail punishment, therefore, becomes illegal and deserves to be quashed on that short ground. Once that hurdle stands removed the case of the petitioner for temporary release on parole deserves consideration and the same cannot be put off on the ground that petitioner is not eligible for parole.

4. The result is that the jail punishment awarded to the petitioner on 3.3.1987 is quashed and the respondents are directed to consider the case of the petitioner for temporary release on parole. It is further directed that they shall finalise the same within four months. The petition is disposed of in these terms.