

(2013) 10 P&H CK 0105
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7052 of 2012

Mahender Singh	Vs	APPELLANT
State of Haryana and others		RESPONDENT

Date of Decision : 09-10-2013

Acts Referred:

Citation : (2013) 10 P&H CK 0105

Hon'ble Judges : Rajiv Narain Raina, J

Bench : Single Bench

Advocate : R.A. Sheoran, for the Appellant; Sunil Nehra, D.A.G., Haryana, for the Respondent

Final Decision : Partly Allowed

Judgement

Rajiv Narain Raina, J.—When this Court issued notice of motion on 19.4.2012, the learned counsel for the petitioner had restricted his

claim to challenge the order dated 23.10.2003 (P-2), vide which, punishment of stoppage of two increments with cumulative effect was imposed

on him for misbehaving with his senior. His challenge to the order dated 26.2.2004, by which, minor penalty of stoppage of two increments without cumulative effect was given up. Heard learned counsel for the parties.

2. Though there may not be any procedural irregularity in the conduct of the enquiry but the punishment inflicted on the charge of misbehaviour

appears to be disproportionate to the gravity of the charge laid. If the petitioner had misbehaved with his superior resulting from an instance dated

23.7.2002, no material facts or particulars have come in the enquiry proceedings as to what actually transpired which could be called

misbehaviour. General statements of misbehaviour may not be sufficient to

constitute proof of misconduct sufficient to impose major penalty.

3. Therefore, this Court is of the view that imposition of major penalty of stoppage of 2 annual increments with cumulative effect is harsh and

disproportionate to the gravity of the charge. To that extent, the impugned order dated 23.10.2003 (P-2) cannot be legally sustained. The judicial

review of a penalty order is normally restricted to perversity and the like and in case, there is no evidence in support of the charge.

4. In the present case, I do not find any substantial evidence justifying infliction of harsh punishment imposed. Normally, this Court on finding that

the punishment is harsh, would remit the matter back to the disciplinary authority for review of the order but since the incident is more than 11

years old and the nature of the charge is such, it would not serve the ends of justice if the matter is remitted for reconsideration on quantum.

Therefore, this Court ex-debito justitiae converts the order from major to minor punishment. The impugned order dated 23.10.2003 shall stand

modified and reduced to stoppage of two annual increments without cumulative effect. The writ petition is partially allowed in the above terms.