
(1990) 09 P&H CK 0089

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 344 of 1990

Sant Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 10-09-1990

Acts Referred:

Citation : (1990) 2 AICLR 621 : (1991) 1 RCR(Criminal) 182

Hon'ble Judges : Jai Singh Sekhon, J

Advocate : V.K. Jindal, Advocates for appearing Parties

Judgement

Jai Singh Sekhon, J.

1. Through this writ petition, Sant Singh prisoner seeks quashment of the order dated 6.4.1989 of the Superintendent, Central Jail, Patiala awarding some punishment to the petitioner under Sections 45 and 46 of the Prisons Act, 1894, for two days overstaying the period of parole, inter alia, on the ground that procedure laid down under Section 46 of the Prisons Act was not followed as no effective opportunity was afforded to the petitioner to defend himself. It is also averred that judicial appraisal of The concerned Sessions Judge was not obtained before or after awarding the sentence.

2. In the return, it is stated by the Superintendent, Central Jail, Patiala that due procedure was followed before awarding the punishment and that the concurrence of the concerned Sessions Judge was obtained.

3. I have heard the learned counsel for the parties besides perusing the original enquiry file produced by Shri Hardeep Singh, Assistant Superintendent Central Jail, Patiala. The learned Sessions Judge, Patiala has accorded approval by simply writing the following words

"Judicial appraisal sent by you against convict Sant Singh son of Sarwan Singh has been approved."

4. From the abovereferred order of the Sessions Judge, there is not even an

oblique indication, that he has applied his mind to the facts and circumstances of the case before according approval what to say of having heard the petitioner. Under these circumstances, it cannot be said that the Sessions Judge had accorded approval to the punishment awarded after due application of mind. The decision of this Court in *Surat Singh v. State of Punjab*, 1990(1) Recent Criminal Reports 679 can be safely referred in this behalf. In that case also, the order awarding punishment was quashed on the ground that the Sessions Judge has not passed a speaking order while giving approval to the punishment awarded to the prisoner. In the case in hand also, the learned Session Judge has failed to pass a speaking order after full application of the mind to the facts and circumstances of the case. Thus, it cannot be said that the order of the Sessions Judge meets the requirements of the mandate of the Apex Court in *Sunil Batra v. Delhi Administration*, AIR 1980 SC. 1579.

5. The question then arises, whether it is a fit case for being sent to Sessions Judge for reappraisal and passing a speaking order. In this regard it is noteworthy that the punishment was imposed in this case on 641989 and relates to the conduct of the petitioner in overstaying by two days of the period of parole. Thus, no useful purpose would be served by sending the case back for reappraisal.

6. For the foregoing reasons, the impugned order of the Superintendent Jail is quashed on the ground of lack of the appraisal of the Sessions Judge to the punishment awarded.

7. The writ petition stands disposed of accordingly.

8. The original file has been returned to the concerned official.