
(1989) 2 AICLR 393 : (1989) 2 RCR(Criminal) 548

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Writ Petition No. 1007 of 1989

Tara Chand

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: Aug. 3, 1989

Citation: (1989) 2 AICLR 393 : (1989) 2 RCR(Criminal) 548

Hon'ble Judges: S.D.Bajaj, J

Advocate: Azad Singh, Veena Ashwani Talwar, Advocates for appearing Parties

Judgement

S.D. Bajaj, J.

1. While undergoing life imprisonment in District Jail, Rohtak, in pursuance of judgment dated April 21, 1982, of learned Additional Sessions

Judge, Sonapat detenu petitioner Tara Chand was assigned the duty of convict watchman by the Jail Authorities, August 28, 1986. Convict Suresh

Kumar son of Kirori Mal was under supervision in the outside gang. Aforesaid convict, however, escaped from his custody on that very day itself.

Convict watchman Tara Chand was thus accused of a jail offence and punishment of reduction in rank was awarded to him for it on the following

day viz., August 29, 1986.

2. In Criminal Writ No. 1007 of 1989, detenupetitioner Tara Chand has challenged the jail punishment awarded to him on the grounds that the

petitioner was neither heard himself nor afforded an opportunity to crossexamine Jaipal and Dharampal, who were both examined by the Jail

Authorities as witnesses against him and that the alleged inquiry against him was conducted by the officiating Superintendent Jail.

3. In para No. 5 of the reply, it was asserted by the respondents ""that the contents of para 5 of the writ petition are wrong and denied. The

petitioner committed Jail offence under para 608(8) of Punjab Jail Manual and Section 45(8) of Prison Act, 1894. The contents of para 608(8) of

Punjab Jail Manual and Section 45(8) of Prison Act, 1894 are reproduced below :

Willful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment.

The petitioner was punished for this offence under the provisions contained in para 630(2)(c) of Punjab Jail Manual. The contents of para 630(2)

(c) of Punjab Jail Manual are reproduced below :

Forfeiture of class, grade or prison privileges for a period exceeding three months"". Hence the punishment was awarded to the petitioner in

accordance with the rules and provisions of Punjab Jail Manual and Prison Act, 1894.

4. I have heard Mrs. Veena Ashwani Talwar, Advocate for the petitioner, Shri Azad Singh, Advocate for the respondents and have carefully gone

through the material on record.

5. During the course of inquiry statements Annexure R2 of Warder Jaipal and Annexure R4 of Wardar Dharam Pal were recorded besides the

deposition of delinquent CNW Tara Chand himself as Annexure R3. It is not stated either in Annexure R2 or in Annexure R4 that the delinquent

was allowed any opportunity to crossexamine them. Delinquent C.N.W. Tara Chand was also not apprised of the charge against him nor was his

explanation obtained in respect of it.

6. In similar circumstances, it was held this Court in Harnek Singh v. State of Punjab and another, 1984(1) CLR 49 :

Held, that there is absolutely no indication on the record that any statements of the two officials, namely, Shri Balbir Singh Batra, Assistant

Superintendent, and Shri B.L. Sethi, Pharmacist were recorded by some officer in the presence of the petitioner, or that the petitioner had refused

to cross-examine these witnesses.

The word "determine" in Section 46 involves a judicial approach to the matter which necessarily implies an objective application of mind by the

Superintendent of the Jail to the material before him.

Inquiries of this nature being quasi-judicial, must conform to the principles of natural justice which postulate a right to the delinquent to be heard and

the recording of the relevant witnesses in the presence of the delinquent prisoner.

In this view of the matter, the writ succeeds and is allowed. Jail punishment awarded to the detainee-petitioner CNW Tara Chand on August 29,

1986, is quashed.

Writ allowed.