

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-12291-1998 (O&M)
Date of decision : 20.05.2015

Nand Nandan Sarup Saxena

...Petitioner

Versus

The State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ravi Kamal Gupta, Advocate,
for the petitioner.

Mr. Mehardeep Singh, DAG, Punjab.

JITENDRA CHAUHAN, J.

This is a petition under Articles 226/227 of the Constitution of India, filed by the petitioner for quashing orders Annexures P-2, P-3 and P-8 to P-16, passed by respondent No.3; with a prayer to treat the rank and status of the petitioner as he was holding on 26.05.1995; and fix his pay and pension accordingly.

The learned counsel refers to Rule 4 of the Punjab Police Clerical Service (State Service Class-III) Rules, 1960, and states that the Director General of Police (erstwhile Inspector General of Police) was the appointing authority of the petitioner and he alone was competent to pass the final orders, whereas, the impugned orders have been passed by the Inspector General of Police (Commodo), being against the rules, are unsustainable in the eyes of law. Moreover, when

the promotion orders, Annexures P-6 and P-7, were issued by the DGP, any authority subordinate to him was not empowered to impose penalties/punishments. It is further contended that the proceedings in all the enquiries were conducted ex parte. No statement of witnesses or documents produced were ever supplied to the petitioner. The punishment imposed is grossly disproportionate to the charges levelled, which is sufficient to prove that the authorities were inimical to the petitioner. It is further submitted that the petitioner stands acquitted in all the five criminal cases foisted upon him at the behest of the authorities. It is submitted that during the financial year 1994-95, a sum of Rs.5.50 Crores was sanctioned for modernisation of 5 I.R. Battalions. Respondent No.4 wanted to commit some irregularities by purchasing the items not covered under the mandate of the sanction and further to split the bills in such a way that the amount comes within his competency to sanction. On 27.05.1995 (a holiday being Saturday), a meeting with Commandants of I.R. Battalions was convened, wherein, the petitioner, Accountant and D.D.O. were also present. To save his skin, respondent No.4 directed the petitioner to put his initials on the office copies of the sanctions already issued whereby irregularities had been committed and also to sign the monthly Goshwaras on the cash Book. Since, the Audit Party of the Office of the Accountant General, Punjab, was due to come for audit, the petitioner refused to do so. At this, respondent No.4 flaired up and directed Shri Prag Jain, IPS, Commandant Ist I.R. Battalion, Patiala to put pressure on the petitioner.

Respondent No.4 also threatened the petitioner that his two daughters working in I.R.B. Wing and Commando Wing would be removed from service. The petitioner also filed a detailed complaint to the Director, Central Bureau of Investigation in this regard.

On the other hand, the learned State counsel has vehemently opposed the present petition.

Heard.

In the present case, as many as eleven orders, Annexures P-2, P-3 and P-8 to P-16, had been passed against the petitioner within a span of two years, from 13.06.1995 to 07.11.1997. All these orders had been passed by DIGP, IRB and IGP (Commando), whereas, as per the 1960 Rules, governing the service conditions of the petitioner, the Director General of Police (erstwhile Inspector General), is the appointing and punishing authority as far as the petitioner is concerned. The DIGP, IRB and IGP (Commando), being subordinate to the DGP, were incompetent to pass such orders and the same are a nullity.

The punishments imposed upon the petitioners by way of the impugned orders include forfeiture of service for the specified periods, which is nowhere provided in the 1960 Rules. Even otherwise, considering the gravity of the charges levelled against the petitioner, the punishment imposed is apparently disproportionate.

Furthermore, as many as five FIRs came to be registered against him during the same period, i.e. on 07.11.1996, 27.06.1995, 29.06.1995, 26.12.1996 and 11.04.1996, respectively. The petitioner

was ultimately acquitted in all these FIRs, vide separate judgments, Annexures P-19 to P-23. It has also been brought to the notice of the Court that no appeal has been preferred by the State against any of the judgments of acquittal.

From the facts noticed above, it is apparent that the petitioner has been victimized on account of his refusal to submit to the unjust and unlawful demands of his seniors. It has also been averred that the petitioner's son was also implicated in a false case but was discharged subsequently.

In view of the above, the present petition is allowed and impugned orders, Annexure P-2, P-3, P-8 to P-16, are hereby quashed; his pension be fixed by treating his rank as existed on 26.05.1995; and the consequential benefits be released to the petitioner within a period of four months from the date of receipt of a certified copy of this judgment.

20.05.2015
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(JITENDRA CHAUHAN)
JUDGE