

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 9211 of 2001

Date of Decision : January 28, 2015

Constable Manjit Singh Petitioner
Vs.
State of Punjab and others Respondents

**CORAM : HON'BLE MR. JUSTICE SATISH KUMAR MITTAL.
HON'BLE MR. JUSTICE DEEPAK SIBAL.**

* * *

To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

* * *

Present : Mr. Kamaldip Singh Sidhu, Advocate
for the petitioner.

Mr. K. K. Gupta, Addl. A. G., Punjab.

* * *

DEEPAK SIBAL, J. :

The petitioner joined as a Constable on 22.02.1989. On the basis of his performance, he was placed in promotion list C-II, but thereafter, on the basis of certain misconduct, he was subjected to a regular departmental inquiry, which, after conclusion, found him guilty. On the basis of his guilt having been established, the Senior Superintendent of

Police (SSP), Ropar recommended to the Deputy Inspector General (DIG) of Police, Ludhiana Range, Ludhiana for removal of the name of the petitioner from promotion list C-II. The Deputy Inspector General (DIG) of Police, Ludhiana Range, Ludhiana granted approval on 08.09.1998 and on the basis of order dated 08.09.1998, SSP, Rupnagar passed order dated 01.12.1998 formally removing the name of the petitioner from promotion list C-II.

The above action was challenged by the petitioner through a writ petition filed before this Court being **C. W. P. No. 2063 of 2000** and in that writ petition, this Court issued directions to the Director General of Police, Punjab in the following terms :-

“After hearing counsel for the petitioner, we dispose of the writ petition with a direction to respondent no. 2 to consider the present writ petition as a representation on behalf of the petitioner, and decide the same in accordance with law by passing a speaking order spelling out reasons why the name of the petitioner has been removed from List C-II. Let the needful be done within 3 months from the date of receipt of a copy of this order.

*Petitioner is directed to furnish a copy of
the writ petition to respondent no. 2.”*

In pursuance to the above directions, the Director General of Police, Punjab considered the case of the petitioner and rejected the same vide his order dated 12.02.2001. It is against the above orders that the petitioner has approached this Court through the present writ petition. In addition to the above orders passed by the Deputy Inspector General (DIG) of Police, Ludhiana Range, Ludhiana; Senior Superintendent of Police, Rupnagar and Director General of Police, Punjab (Annexures P-2, P-3 and P-1 respectively), the petitioner also challenges the vires of Rule 16.33 of the Punjab Police Rules, 1934.

We have heard learned counsel for the parties and with their able assistance, perused the case file.

Learned counsel for the petitioner draws our attention to the fact that before removing the name of the petitioner from promotion list C-II, which was on the basis of a regular departmental inquiry, in which the petitioner was found guilty, no show cause notice was served upon him and no hearing was afforded. He further submits that even a copy of the inquiry report was never served upon him, which formed basis of his removal from promotion list C-II. These facts were not disputed by the learned counsel appearing on behalf of the State of Punjab. That being so, the entire action of removal of the name of the petitioner from the promotion list C-II, and

all consequent orders passed thereafter, are liable to be set aside, being in violation of principles of natural justice. No adverse order, affecting the rights of the petitioner, could have been passed without issuing a show cause notice to him and in the facts of the case in hand, without granting him hearing. What is more shocking is that even the copy of the inquiry report was not served upon the petitioner, which formed the basis for the adverse action taken against him.

In view of the above, the impugned orders Annexures P-1, P-2 and P-3 are set aside and the matter is remitted back to the authorities, with liberty to them to proceed against the petitioner, from the stage when the principles of natural justice were violated by them, as held by us above.

Learned counsel for the petitioner has stated that, at this stage, he does not press his challenge to the vires of Rule 16.33 of the Punjab Police Rules, 1934.

Disposed of accordingly.

(SATISH KUMAR MITTAL)
JUDGE

(DEEPAK SIBAL)
JUDGE

January 28, 2015
monika