

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

301

Civil Writ Petition No.4612 of 2008

Date of Decision: April 01, 2015

Gurmit Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. H.S. Dhandi, Advocate
for the petitioner.

Mr. Hitesh Pandit, Additional Advocate General, Haryana,
for the respondents.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court praying for quashing of the order of dismissal from service dated 29.12.2006 (Annexure P-4), order dated 13.03.2007 (Annexure P-6) passed by the Appellate Authority and the order dated 14.12.2007 (Annexure P-8) passed by the Revisional Authority, whereby the appeal and the revision preferred by the petitioner against the order of his dismissal from service stand rejected.

The facts in brief are that the petitioner was appointed as a Constable on 17.01.1973 and by the dint of his hard work and sincerity, he was rewarded with 46 good entries in the service record including cash rewards and certificates. There is only one adverse entry and that too of censure in his 35 years' service career. The petitioner, at the time of his dismissal, was working as an Assistant Sub Inspector. All this indicates that he has been a consistent good performer, a sincere and devoted police

officer, whose work has been appreciated by his superiors. A false case of corruption i.e. F.I.R. No.286 dated 29.11.2005 under Section 7/13 of the Prevention of Corruption Act, was registered at Police Station Ambala City. In the said criminal case, the petitioner stands acquitted vide judgment dated 29.07.2010 (Annexure A-1) by the Special Judge, Ambala, where the prosecution was unable to prove the case against the petitioner.

During the pendency of the criminal trial, petitioner was placed under suspension on 29.11.2005 and a show cause notice issued to him. A charge sheet was served upon the petitioner on 06.12.2005 and the documents were supplied to the petitioner on 09.01.2006. Thereafter a departmental inquiry was held against him, in which apart from six prosecution witnesses, three defence witnesses were also examined. Due opportunity to cross-examine the witnesses has been given to the petitioner, which also was availed by the petitioner. Thereafter the Inquiry Officer submitted his report dated 22.11.2006 (Annexure P-2) returning a finding that the petitioner was guilty of the charges levelled against him, which was to the effect that while he was investigating case No.171 of 2005 being posted at Police Station Mahesh Nagar, Ambala, which was registered against Raj Kumar son of Sarda Ram, Balak Ram etc. During investigation of this case, the petitioner demanded ₹5,000/- for producing the accused before the Court on the same day after arresting them and for not seeking their remand from the Court and also to arrest the persons from the complainant party. This demand was repeated by the petitioner from Raj Kumar and others on 29.11.2005 and at that time, he again demanded an amount of ₹5,000/-. Raj Kumar and others did not desire to pay any money to the petitioner but since he was pressurizing them, they agreed to pay

₹2,000/- at 4:00 pm in front of Court of Smt. Ranjana Aggarwal. Feeling harassed, Raj Kumar contacted the higher authorities, on which the Director General of Police constituted a flying squad headed by Shri Rajesh Duggal, HPS, who along with his staff raided and caught red handed the petitioner on 29.11.2005 outside the Court of Smt. Ranjana Aggarwal, for taking ₹2,000/- as bribe from Raj Kumar, which led to the registration of F.I.R. No.286 dated 29.11.2006 against the petitioner. He was arrested at the spot and placed under suspension.

After the submission of the inquiry report against the petitioner, a show cause notice was served upon him along with copy of the inquiry report, to which the petitioner filed a reply and on considering the reply filed by the petitioner, a well reasoned and detailed order dealing with all the contentions raised by the petitioner, has been passed by the Superintendent of Police, Ambala, dated 29.12.2006 (Annexure P-4), not accepting the pleas and holding him guilty of the charges levelled against him by the Inquiry Officer. The claim of the petitioner for grant of pension has also been considered as per the requirements of the Rules with regard to the gravity of the misconduct of the petitioner and keeping in view the fact that the petitioner has been found guilty of corruption, the punishing authority has concluded that no punishment less than dismissal from service would be appropriate.

Petitioner preferred an appeal before the Inspector General of Police, Ambala Range, Ambala, which has been rejected vide order dated 13.03.2007 (Annexure P-6), the grounds as taken by the petitioner in the appeal have been duly considered, similar is the position with regard to the revision preferred by him, where the Director General of Police, after

considering the facts, has come to a conclusion that since the petitioner has been caught red handed while taking bribe from the accused, no lenient view can be taken.

Counsel for the petitioner submits that none of the orders of punishment can be sustained as the findings recorded by the Inquiry Officer are based on no evidence. He contends that none of the members of the raiding party, who had allegedly caught the petitioner red handed while taking bribe, has been examined as a witness. Only formal witnesses have been examined. Complainant Raj Kumar has not supported the charges levelled against the petitioner and stated that he was forced to sign the complaint and to put his signatures on the currency notes because of fear and pressure put by the police authorities. He has further stated that he has never given any bribe to petitioner ASI Gurmit Singh as the later never demanded any money from him. He has also referred to the defence witnesses DW-1 Head Constable Devi Pal, to contend that he was being asked to appear as a witness in the criminal proceedings, by Shri Rajesh Duggal, DSP, at the time when the 500 rupees notes were said to have been recovered from the pocket of the petitioner, but he refused to do so on the ground that he had not seen the recovery of the said amount, because of which, the Deputy Superintendent of Police has got infuriated. Reference has also been made to the statement of Rajender Singh DW-2, who has stated that he was present outside the Court of Smt. Ranjana Aggarwal, Judicial Magistrate 1st Class, Ambala City, where he saw the Deputy Superintendent of Police forcibly giving notes to the Assistant Sub Inspector. Similar is the statement of DW-3 Yogender Singh. He on this basis contends that the petitioner has been wrongly implicated in the criminal case of corruption and further that there

being no evidence against the petitioner, the findings recorded by the Inquiry Officer in his report, deserve to be set aside and with the setting aside of the said inquiry report, the very basis, which has led to the dismissal of the petitioner from service and the consequential orders of Appellate Authority and Revisional Authority, cannot sustain and deserve to be quashed.

This contention of the counsel for the petitioner cannot be accepted as Rajesh Duggal, HPS, Deputy Superintendent of Police, has appeared as a prosecution witness No.5, wherein he has clearly stated that he had constituted the raiding party, which consisted of Shri Suresh Chander, Inspector, Sub Inspector Tejinder Singh and other staff. The currency notes worth ₹2,000/- were handed over by Shri Raj Kumar and the list of notes was prepared. The raid was conducted on the petitioner in the Court premises, Ambala and the currency notes amounting to ₹2,000/- recovered from the petitioner. He was arrested on the spot and after completion of the investigation at the spot, challan was presented. Arrest report has also been exhibited and marked as PW5/A. Although an argument was raised by the counsel for the petitioner that the criminal case was registered against the petitioner at the behest of Deputy Superintendent of Police, but in the cross-examination, no such suggestion has been put to him and, therefore, the said plea cannot be accepted. As regards statement of the complainant Raj Kumar is concerned, it is apparent that he had signed the complaint and had also put signatures on the currency notes, although stated to be under fear and threat. But in the cross-examination, he has stated that he has not made any complaint to the higher authorities about this aspect. This again shows that there was indeed a complaint and the currency notes were also given by him, which contain the signatures of the complainant.

An argument was raised by the counsel for the petitioner that the Deputy Superintendent of Police Shri Rajesh Duggal, HPS, was not present at the spot and, therefore, his evidence cannot be taken into consideration. But the same cannot be accepted in the light of the categorical statement made by the defence witnesses specially Head Constable Devi Pal DW-1, Rajender Kumar DW-2 and Yogender Singh DW-3, who all have testified that the Deputy Superintendent of Police was present at the spot, when recovery was effected.

By now it is well settled that this Court in exercise of its jurisdiction under Article 226 cannot sit as an Appellate Authority over the inquiry report submitted by the Inquiry Officer, however, the limited jurisdiction, which the Court must exercise is where the findings recorded by the Inquiry Officer is without any evidence on record or are based upon no evidence or the conclusions are such vague and unreasonable that the same cannot be accepted under any circumstance. Present is not a case of such a nature. The findings thus recorded by the Inquiry Officer in its report dated 22.11.2006 cannot be faulted with.

The punishing authority has passed a detailed and well reasoned order dated 29.12.2006 (Annexure P-4) dealing with all the aspects and pleas, as has been raised by the petitioner and on perusal of the same this Court finds no reason to interfere with the same. All the parameters, as has been laid down under the statutory Rules, have been taken care of and on consideration of various aspects of the case, the punishment of dismissal has been imposed upon the petitioner.

Another prayer has been made by the counsel for the petitioner that the petitioner is having an unblemished carrier of 35 years' with the

police force and there are 46 good entries in his service record; except for one censure, there has been no other punishment or warning given to the petitioner and, therefore, the punishment imposed upon the petitioner is too harsh. This plea in the given facts and circumstances of the present case cannot be accepted, as the petitioner has been found guilty of the charges of corruption, which cannot be tolerated from a person posted in a disciplined force and as such does not deserve a lenient view. This aspect has also been looked into and discussed by the Superintendent of Police, Ambala, while passing the order of dismissal, with which this Court is in agreement.

Finding no merit in the writ petition, the same stands dismissed.

April 01, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE