

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

CWP No. 26717 of 2014 (O&M)

Date of decision: 19.05.2015

Jai Kishan

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. R. Kartikeya, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana
for the State.

Jitendra Chauhan, J. (Oral)

By way of the instant writ petition, under Articles 226/227 of the Constitution of India, the petitioner seeks quashing of charge sheets dated 26.03.2012 (Annexure P-3), 14.08.2012 (Annexure P-4), final report dated 20.10.2012 (Annexure P-5), show cause notice dated 14.12.2012 (Annexure P-6), order dated 21.06.2013 (Annexure P-8) and order dated 11.02.2014 (Annexure P-10), vide which the petitioner was suspended and awarded a punishment of reduction of 10% in pension.

The brief facts of the case are that the petitioner was appointed in the Haryana Police on 03.04.1979. In the year 2012, the petitioner was posted as Sub Inspector, Police Station Jhajjar, During

his posting on 10.03.2012, some hard core criminals attacked the prison van, Rohtak in the area of Police Station Jhajjar and killed convicts Dilbagh and Shribhagwan and aslo inflicted injuries to police officials and two other convicts Ranbir @ Fauji and Nasib Khan Mev. The petitioner had conducted the preliminary investigation in the matter. During the investigation, he summoned accused Hoshiari Devi wife of Satbir Singh and Joginder Singh @ Jogi son of Manjhi. After investigation, instead of arresting them, he let them off after taking bribe.

Thereafter, on 13.03.2012, the investigation of above said case was conducted by Inspector Naib Singh and on finding sufficient evidence, arrested accused Hoshiari Devi on 15.03.2012, whereas no material evidence was collected against accused Joginder Singh @ Jogi. The present petitioner being a member of disciplined force, committed gross negligence by let off the accused persons.

It is contended that the petitioner had no role in the investigation. In fact the investigation was carried out by the SHO, Police Station Jhajjar, in accordance with order dated 11.03.2012. During the investigation, no material was collected against the petitioner and the conclusion of the Inquiry Officer was drawn on presumptions. The learned counsel refers to show cause notice dated 14.12.2012 (Annexure P-6) and states that the inquiry proceedings carried out against the petitioner are based on pre-determined notion

arrived at by the superior authorities. The order was passed in violation of principle of natural justice. It is further asserted that a comprehensive appeal preferred before the Inspector General of Police by the petitioner was dismissed by passing a non speaking order. During the pendency of the departmental proceeding, the respondents have not suffered any monetary loss. Without there being any evidence with regard to charge sheets served upon the petitioner, the Inquiry Officer recorded the finding on the basis of past conduct of the petitioner. The petitioner had retired.

On the other hand, the learned State counsel submits that on receipt of source report furnished by Naib Singh, SHO Police Station Jhajjar in case bearing FIR No. 165 dated 10.03.2012, under Sections 148, 149, 307, 302, 332, 353, 186, 395, 396, 397, 120-B IPC and Section 25 of Arms Act, the petitioner was ordered to be suspended and a regular departmental inquiry was ordered against the petitioner. The departmental inquiry was conducted as per the procedure after affording full opportunity of hearing to the petitioner. The findings recorded by the Inquiry Officer are based on the material collected during the investigation against the petitioner. The Superintendent of Police, Jhajjar after analyzing the report, approved the findings recorded by the Inquiry Officer and ordered for deduction of 10% from the pension sanctioned to the petitioner with permanent effect, vide order dated 21.06.2013. The appeal preferred

by the petitioner before the IGP against the order dated 21.06.2013 was also rejected after affording him full opportunity.

I have heard the rival contentions of learned counsel for both the parties and have gone through the record carefully.

The conclusion report of the Inquiry Officer reads as under:-

“During departmental enquiry, the relevant documents, statements of prosecution witnesses, statements of defence witnesses, reply in writing given by delinquent were perused and recording of enclosed C.D. was heard and call details of mobile number of Joginder @ Jogi and delinquent were perused. After listening to C.D., it has been found that Inspector Naib Singh has recorded the conversation from his mobile number to Joginder Singh, in which Joginder Singh had told that his maternal uncle Bhola was demanding Rs.50000/- from him; and that when he asked about the reason, he told that he had given money to police for getting him released, but he did not clearly name any official or officer. But Inspector Naib Singh has mentioned in his statements regarding giving of money to S.I.Jaikishan. From this, it becomes clear that preliminary investigation in the above said case was conducted by S.I.Jaikishan and as such S.I.Jaikishan must have talked regarding taking of money from Bhola. Apart from this, from the perusal of mobile call detail, it has been found that there were talks on delinquent S.I.Jaikishan mobile No.9416033455 and mobile No.9416534439 given by Bhola of total 69 seconds on 11.03.12, 28 seconds on 13.03.12, 145 seconds on 14.03.12, from which it is proved that S.I.Jaikishan must have talked regarding taking of money. Apart from this after registration case FIR No. 165 dated 10.03.2012, under Sections 148, 149, 307, 302, 332, 353, 186, 395, 396, 397, 120-B IPC and Arms

Act in Police Station Jhajjar on 10.03.2012, preliminary investigation was conducted by S.I. Jaikishan. During investigation, it came to light that as per orders of higher officers, police of Police Station Sampla had apprehended Joginder and Hoshiari Devi on 12.03.2012 and had left them in Police Station Jhajjar and S.I Jaikishan after joining them in investigation, had released them after conducting interrogation, whereas investigation in the above said case was conducted on 13.03.2012 by Sh. Naib Singh, SHO, Police Station Jhajjar. During investigation, Joginder and Hoshiari Devi were again joined in the investigation and interrogated. On finding evidence to arrest against Hoshiari Devi, Sh. Naib Singh, SHO, Police Station Jhajjar had arrested her on 15.03.2012, from which it comes to light that SI Jaikishan did not thoroughly interrogated Joginder and Hoshiari Devi and had only conducted formality. It also cannot be denied that SI Jaikishan had got agreed Joginder Singh @ Jogi and Hoshiari Devi for making statements in his favour. Apart from this, there are 8 'adverse' entries in the earlier record of SI Jaikishan No. 360/RR, out of which there are 7 entries of 'Censure' and one entry of P.D.

On the basis of above said facts, I have come to the conclusion that charges leveled against SI Jaikishan are proved.”

It has come on record that Hoshiari Devi, now convict was apprehended along with Joginder Singh @ Jogi by the police and were kept at Police Station Jhajjar. As per the evidence collected, the petitioner after joining them in the investigation, released them on receipt of payment of Rs. 50,000/- from the uncle of Joginder Singh and Rs. 30,000/- from Hoshiari Devi. The phone calls

exchanged between the petitioner and the accused clinches the issue. The petitioner who was a member of the disciplined force acted against the interest of the State. The conduct of the petitioner in releasing the accused, who were subsequently convicted, after conducting interrogation cannot be apporved. On re-arrest of the accused Joginder Singh and Hoshiari Devi by Naib Singh, SHO, Police Station Jhajjar, it came into light that petitioner did not thoroughly interrogate the accused Joginder Singh and Hoshiari Devi and had in fact conducted the proceedings in a manner that helped the accused to escape the rigor of law. It is also to be noticed that apart from the charge sheet in question, there are eight adverse entries in the previous record of the petitioner. There is nothing on record to even remotely suggest that the impugned orders were passed with preconceived notion or on the basis of past record of the petitioner.

However, keeping in view the fact that the petitioner stand retired, and the competent authority chose to take a lenient view, this Court refrain from commenting upon the wisdom and judgment of the authority at this stage.

Accordingly, finding no merit in the instant petition, the same is hereby dismissed.

19.05.2015

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(JITENDRA CHAUHAN)
JUDGE