

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

Civil Writ Petition No.641 of 2015

Date of decision: 15.1.2015

Parminder Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Bikramjit Singh Bajwa, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

The petitioner was appointed on compassionate grounds on 9th August, 1996 following the death of his father, a policeman in Punjab Police, in an encounter with terrorists in 1989. He served in the Police Department till 2003 when he was implicated in a criminal case set in motion in FIR No.282 of 2003 under Sections 392, 353, 186 read with Section 34 IPC. He was arrested by the police on 10th June, 2003. Due to the registration of the FIR, he was placed under suspension on 10th June, 2003. On 25th June, 2003, he informed the Department that he was in judicial custody. He was reinstated to service pending trial on 18th August, 2003. A show cause notice was issued to him on 7th April, 2005. He says that due to the first FIR, he was implicated falsely in two more cases, i.e., FIR No.282 of 1st August, 2005 under Sections 326, 323, 324, 148, 149 IPC in Police

Station Vijay Nagar. In the meantime, the petitioner had been charge sheeted for misconduct for absence from duty. He was again arrested on 24th March, 2006 because of the registration of the second case. By reason of arrest, he was removed from service by an order dated 5th September, 2007. He imputes the registration of both the FIRs are the result of rivalry with some persons whose relatives had been killed by his father during service. The petitioner was acquitted in all the 3 cases which were registered against him. He cites judgment dated 29th February, 2011 passed by the learned JMIC, Amritsar in case bearing FIR No.200 of 2003. The petitioner says that his second period of absence was due to the second criminal case in which the petitioner was also acquitted on 9th December, 2011 vide judgment passed by the JMIC, Amritsar as well as the judgment dated 14th January, 2010. The criminal cases failed because the complainant, who was a policeman, did not appear.

2. A perusal of the judgments of acquittal shows that the petitioner was given the benefit of doubt in all the 3 cases. The petitioner is before the Court impugning the dismissal order dated 5th September, 2007 [P-4] and the appellate order.

3. Learned counsel submits that acquittal proves innocence and, therefore, the petitioner has a right to reinstatement praying that the impugned order be set aside. The Commandant 82nd, Batallion, PAP, Chandigarh vide impugned order removed the petitioner from service of the Police Department for absence from duty and for remaining in Central Jail, Amritsar for 128 days. The total period of absence worked out to be 847 days.

4. The Supreme Court in **Delhi Administration v. Sushil Kumar**, (1996)11 SCC 605, observed:-

“It is seen that verification of the character and antecedents is one of the important criteria to test whether the selected candidate is suitable to a post under the State. Though he was physically found fit, passed the written test and interview and was provisionally selected, on account of his antecedent record, the appointing authority found it not desirable to appoint a person of such record as a Constable to the disciplined force. The view taken by the appointing authority in the background of the case cannot be said to be unwarranted. The Tribunal, therefore, was wholly unjustified in giving the direction for reconsideration of his case. Though he was discharged or acquitted of the criminal offences, the same has nothing to do with the question. What would be relevant is the conduct or character of the candidate to be appointed to a service and not the actual result thereof. If the actual result happened to be in a particular way, the law will take care of the consequences. The consideration relevant to the case is of the antecedents of the candidate. Appointing Authority, therefore, has rightly focused this aspect and found him not desirable to appoint him to the service.”(emphasis added)

5. In view of these facts and that the petitioner was not acquitted in the criminal cases on merits, I find no reason to interfere with the orders of removal from service and I have found no ground warranting interference in the writ jurisdiction under article 226 of the Constitution of India.

6. Dismissed.

(RAJIV NARAIN RAINA)
JUDGE

January 15, 2015
Paritosh Kumar