

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

**C.W.P. No. 13040 of 2016
Date of Decision:- 19.12.2016**

Punjab Singh

....Petitioner

vs.

State of Punjab and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. R.K. Arya, Advocate,
for the petitioner.

Mr. Pankaj Mulwani, DAG, Punjab.

DAYA CHAUDHARY, J.

The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing the order of dismissal dated 25.5.2014 (Annexure P-1), order dated 5.9.2014 (Annexure P-2) whereby appeal of the petitioner was rejected as well as order dated 10.12.2015 (Annexure P-3) whereby the revision petition filed by the petitioner was also rejected.

The brief facts of the case, as made out in the present petition, are that the petitioner joined police force as Constable on 28.8.1991 and thereafter he was promoted as Head Constable in the year 2000 and as Assistant Sub Inspector on 25.4.2013. However, the petitioner was dismissed from service vide impugned order dated 25.5.2014 by exercising powers under Article 311(2)(b) of the Constitution of India. Said order of

dismissal was challenged by way of filing an appeal to Deputy Inspector General of Police, Border Range, Amritsar, but the same was also rejected vide order dated 5.9.2014. Thereafter, revision petition was filed which was also rejected vide order dated 10.12.2015. Order of dismissal, rejection of appeal as well as revision petition are subject-matter of challenge in the present writ petition.

Learned counsel for the petitioner submits that the impugned order has been passed without recording any finding as to how it was not practicable to conduct an inquiry or as to how the petitioner had links with the smugglers. Learned counsel also submits that the impugned orders have been passed without application of mind as neither the satisfaction of the Authority has been recorded nor reasons have been mentioned to show that holding of inquiry against the petitioner was impracticable. At the end, learned counsel for the petitioner submits that the case of the petitioner is squarely covered by a decision of case **Karam Singh vs. State of Punjab and others**, CWP No. 41 of 2015 decided on 1.6.2016. Learned counsel submits that same allegations were there against petitioner Karam Singh and under the similar circumstances, the impugned orders were passed in that case but subsequently his petition was allowed vide order dated 1.6.2016 and impugned orders were set aside. The petitioner was held entitled to all consequential benefits.

In response to notice of motion, reply has been filed which is on record. Learned counsel for the respondent-State has opposed the submissions made by learned counsel for the petitioner but has not disputed the decision of Karam Singh's case (supra) who was similarly situated and

was dismissed from service under similar circumstances.

Heard arguments of learned counsel for the parties and have also perused the impugned orders as well as other documents available on the file.

Learned Single Judge while allowing the petition of similarly situated Karam Singh, has relied upon certain judgments of Hon'ble the Apex Court as well as this Court i.e. **Jaswant Singh vs. State of Punjab and others**, 1991 (1) SCC 362, **Lakhbir Singh vs. State of Punjab and others**, 2016 (1) SCT 41 **Risal Singh vs. State of Haryana and others**, 2014 (13) SCC 244 and **Ved Mitter Gill vs. Union Territory Administration, Chandigarh**, 2015 (8) SCC 86. Relevant portion of the judgment passed in case of **Karam Singh's case (supra)** is reproduced as under:-

“In such circumstances, this Court is of the opinion that the methodology adopted by respondent No.4, to dispense with the services of the petitioner, was not justified. The reasoning that it would not be reasonable and practical to hold enquiry, is without any basis. Merely because an accused had allegedly given a statement against the petitioner, would not be sufficient ground to dispense with the enquiry and dismiss the services of a Government employee having 14 years of service on the ground that it is not tenable to hold an enquiry.

The judgment in Lakhbir Singh's case (supra)

would not be applicable to the facts of the present case. In the said case, it was noticed that the said Constable had gone to Delhi via Haryana and had communicated with an accused and delivered fake currency and in such circumstances, the order of dismissal from service, in exercise of powers under Article 311 (2) (b) of the Constitution of India, had been upheld. In the present case, no such material has been placed on record, apart from the communication reproduced above, which is also an inter-departmental communication.

Accordingly, in view of the above discussion, the present writ petition is allowed, order dated 25.05.2014 (Annexure P1) and 05.09.2014 (Annexure P2) are set aside. The petitioner will be entitled for all consequential benefits. However, it is open to the respondents to hold a departmental enquiry, on the same set of allegations.”

The controversy in the present case is squarely covered by the ratio of judgment passed in **Karam Singh's case (supra)** (Annexure P-4) and the present writ petition is allowed in the same terms. The impugned order of dismissal dated 25.5.2014 (Annexure P-1), order of rejection of appeal dated 5.9.2014 (Annexure P-2) as well as order dated 10.12.2015 (Annexure P-3) are hereby set aside. The petitioner is also held entitled to all consequential benefits as granted to said Karam Singh. However, it is

open to the respondents to hold a departmental inquiry on the same set of allegations.

Writ petition stands allowed in the above-said terms.

December 19, 2016
poonam

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes