

CWP No.13636 of 2016

#1# Manoj Kumar
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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.13636 of 2016
Date of decision: 16.08.2016

Ex. Constable Balwinder Singh

....Petitioner

Vs.

State of Punjab & Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. K.S. Sidhu, Advocate for the petitioner.

Jaswant Singh, J

Petitioner, who was working as Constable with the Punjab Police, has prayed for a writ of Certiorari for quashing the impugned order dated 11.2.2011 (**P.4**) passed by respondent No.6-Commandant, 7th Bn. PAP dismissing him from services and subsequent orders dated 02.5.2011, 06.7.2012 and 07.5.2013 (Annexures P.5, P.8 and P.10 respectively) affirming the view in appeal, revision and the mercy petition respectively filed by him.

Heard learned counsel for the petitioner and perused the paper book with his able assistance.

It is contended by learned counsel that the petitioner was dismissed from service on account of registration of criminal case bearing FIR No.131 dated 14.10.2010 under Section 392 IPC, P.S. Navi Bara Dari, Jalandhar and once the petitioner has been acquitted by learned trial Court vide judgment dated 07.6.2011 (**P.6**), the impugned order deserves to be quashed and set aside.

It is not in dispute that the petitioner was recruited as a

Constable on 26.6.2002. While he was deputed for security of Sh. Kamaljit Singh Hyre (President NRI Sabha), Punjab, an FIR No.131 dated 14.10.2010 under Section 392 IPC, P.S. Navi Bara Dari, Jalandhar was registered against him in respect of an occurrence, which took place on 13.10.2010 at 11.30 PM at Ladowali Road near BSF Chowk, Jalandhar. It is alleged that the petitioner was arrested from the spot while committing the robbery along with his colleagues at the point of weapons. On account of registration of criminal case, departmental inquiry was initiated vide office order dated 14.10.2010 and the petitioner was suspended.

Sh. Shami Kumar, PPS, Assistant Commandant, 7th Battalion was appointed as Inquiry Officer, who sent different four notices dated 25.10.2010, 29.10.2010, 01.11.2010 and 04.11.2010 to the petitioner at his home address through special messenger but despite service, neither the petitioner joined the duties nor participated in the inquiry proceedings and ultimately the petitioner reported for duty only on 19.11.2010 and consequently remained absent also for 23 days and 21 hours. The Inquiry Officer submitted his report thereby proving the charges and thereafter a show cause notice dated 25.1.2011 was issued for dismissal from service and to treat the period as absent without duty. The petitioner filed his reply in response to the show cause notice and appeared in person before the Competent Authority.

A perusal of the impugned order reveals that the petitioner submitted the photo copy of affidavit of compromise effected with the complainant in his defence but taking into consideration the seriousness of allegations against the petitioner,

the Disciplinary Authority dismissed the petitioner from service in view of Rule 16.2 of the Punjab Police Rules.

Aggrieved against the dismissal order, the petitioner preferred an appeal, which was dismissed. Thereafter, the revision as also the merby petition filed by him have also been rejected.

Although the petitioner has been acquitted in criminal case by learned JMIC, Jalandhar vide judgment dated 07.6.2011 and perusal of same reveals that both the PW1 and PW2 namely Kapil Sehgal-complainant/injured and Rajnish Sehgal have turned hostile, however, it is also matter of record that the petitioner was arrested from the spot on 13.10.2010 and remained in custody till 26.10.2010 but he did not resume his duties till 19.11.2010. Merely that the petitioner has been acquitted of the criminal charge on account of turning both the prosecution witnesses hostile will not automatically absolve him from the charges duly proved in the disciplinary proceedings duly conducted in accordance with the Punjab Police Rules. The Punjab Armed Police is a disciplined force and it cannot be accepted that instead of protecting the life and property of general public, the men in uniforms will loot them by putting them in fear.

In view of the aforesaid facts, no ground for interference is called for.

Dismissed.

August 16, 2016
manoj

(JASWANT SINGH)
JUDGE