

CWP No.17466 of 2016

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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.17466 of 2016

Date of decision: 15.9.2016

Parminder Singh

....Petitioner

Vs.

State of Punjab and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Kewal Krishan, Advocate for the petitioner.

Jaswant Singh, J

Petitioner, who was working as Head Constable in the Punjab Police, has prayed for issuance of a writ in the nature of Certiorari for setting aside order dated 04.4.2014 (P.3) passed by respondent No.4 dismissing him from service with a further writ of Mandamus directing the respondents to grant him pensionary benefits with interest from the date of his dismissal order besides granting him compulsory retirement instead dismissal.

It is contended that the petitioner has rendered almost 22 years of service with the Punjab Police and as such instead of dismissal the petitioner was entitled for compulsory retirement in view of the Rule 16.2 of the Punjab Police Rules, 1934 (for short "Rules of 1934") along with pensionary benefits.

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

It is not in dispute that the petitioner was proceeded departmentally on account of an occurrence that while working as

Head Constable in Dog Squad at Punjab Police Academy Phillaur, on 10.4.2013 at about 7.50 PM a *Naka* was laid at Railway Crossing Dakoha Road, Rama Mandi, Jalandhar Cantt and during the course of search, 100 grams intoxicants/300 proxy-one capsules and shells of 50 empty capsules were recovered from him leading into registration of FIR No.113 dated 10.4.2013 U/s 22/61/85 of NDPS Act, PS Rama Mandi.

A final inquiry report (P.1) was submitted against the petitioner by the Inquiry Officer/DSP, 22nd Battalion, PAP, Jalandhar Cantt thereby concluding that all the charges were duly proved. Consequently, a show cause notice dated 25.2.2014 (P.2) was issued to the petitioner, who filed his reply dated 12.3.2014 thereagainst and ultimately after consideration of the matter in entirety, respondent No.4-Commandant dismissed the petitioner from service vide order dated 04.4.2014 (P.3). An appeal thereagainst was preferred by the petitioner but the same was also dismissed by the DIG-respondent No.3 vide order dated 20.6.2014 (P.4). Feeling dissatisfied, the petitioner filed a revision petition (P.5) against the said order, which was also dismissed vide order dated 28.10.2014 (P.6).

Before proceeding further, it is necessary to notice here that the petitioner has not prayed for setting aside the orders passed by the Appellate as well as Revisional Authority for the reasons best known to him.

From the perusal of the paper book, it is clear that the dismissal order dated 04.4.2014 (P.3) against the petitioner attained finality with the rejection of his revision petition vide

order dated 28.10.2014 and the present writ petition was filed on 24.8.2016 i.e after a lapse of almost two years and there is no reasonable explanation in this regard. In the interregnum, the petitioner also stands convicted U/s 22(b) of NDPS Act, 1985 in the FIR as aforesaid by the learned Special Judge and sentenced to undergo RI for one year plus fine of Rs.2000/- with a default clause of RI one month in case of non-payment of fine vide judgment and order dated 28.4.2015 and admittedly, the said judgment and order are still intact and not set aside till date by the court of competent jurisdiction.

In view of the facts and circumstances of the present case, it is apparently clear that the petitioner is a member of a Disciplined Force and he is expected to exhibit a character of higher responsibility. The conviction of the petitioner under NDPS Act is a serious blot on his career and warrants the complete exclusion of any consideration for compulsory retirement merely on account of the fact that he has rendered 22 years of service. Consequently, the petitioner cannot be given the credit of any past service rendered by him for the purposes of converting his dismissal into compulsory retirement.

Dismissed.

September 15, 2016
manoj

(JASWANT SINGH)
JUDGE