

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

**CWP No.7325 of 2016
Date of decision: 08.11.2016**

Ranjit Singh **..Petitioner**

Versus

State of Punjab and others **..Respondents**

CWP No.7328 of 2016

Kamal Kumar **..Petitioner**

Versus

State of Punjab and others **..Respondents**

CWP No.7329 of 2016

Balwinder Singh **..Petitioner**

Versus

State of Punjab and others **..Respondents**

CWP No.7337 of 2016

Gurmukh Singh **..Petitioner**

Versus

State of Punjab and others **..Respondents**

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Ms. Anu Chatrath Kapur, Sr. Advocate with
Mr. Rakesh Sobti, Advocate
for the petitioner (s).

Mr. Anshul Gupta, AAG, Punjab
for the respondents -State.

Daya Chaudhary, J. (Oral)

This judgment shall dispose of four cases bearing CWP Nos.7325, 7328, 7329 and 7337 of 2016 as common questions of law and facts are involved.

Prayer in the present petitions is for issuance of a writ in the nature of certiorari for quashing of impugned order dated 09.12.2015 passed by respondent No.4, whereby, the petitioner has been ordered to be dismissed from service while exercising the powers provided under Rules 16.1, 16.2 read with Section 7 of the Police Act, 1861 and Article 311 (2)(b) of the Constitution of India.

Learned senior counsel for the petitioner(s) submits that the provisions of Article 311(2)(b) of the Constitution of India have been attracted for dispensing with the services of the petitioner(s) whereas no reason whatsoever has been mentioned as to how it was not practicable to conduct the regular inquiry. The impugned order is totally vague and non-speaking. Learned counsel further submits that the statutory provisions of Police Rules have not been complied with while dispensing with the inquiry. Learned counsel also submits that the scope of Clauses (a), (b) and (c) of proviso (2) to Article 311 was considered by Hon'ble the Apex Court in *Union of India vs. Tulsiram Patel 1985 SCC 398* as well as *Jaswant Singh vs. State of Punjab 1991 SCC 362*. The impugned order is liable to be set aside on this ground as none of the issues as discussed in **Tulsiram 's case (supra)** were mentioned/complied with while passing the impugned order of removal from service. Learned counsel for the petitioner(s) has relied upon judgments rendered by Hon'ble the Apex Court in **Delhi**

Administration vs. Chanan Singh, 1969 SLR 217, Union of India vs. Ramkrishan 1972 (2) SLR 11, Sudesh Kumar vs. State of Haryana and others, 2005(11) SCC 525, Tarsem Singh vs. State of Punjab, 2006(13) SCC 581 and judgment rendered by this Court in *State of Punjab vs. Jagir Singh, RSA No.2397 of 1991* decided on 23.07.1993 in support of her contentions.

In response to notice of motion, reply has been filed by respondents No.1 to 5, which is on record. Learned State counsel has raised a preliminary objection in Para No.6 of the reply that the statutory appeal is still pending and the petitioner has filed this petition without waiting for outcome of the appeal.

Heard arguments of learned counsel for the petitioner(s) as well as learned State counsel and have also perused the impugned order as well as other documents available on the file.

The submissions made by learned counsel for the petitioner(s) with regard to facts and exercising of powers provided under Article 311(2) (b) of the Constitution of India are not disputed. Although no reason whatsoever has been mentioned as to how these powers have been exercised but it will not be justified to say anything at this stage as the appeal filed by the petitioner is still pending.

Accordingly, the present writ petitions are disposed of with a direction to respondent No.3 to decide the pending appeal of the petitioner(s) preferably within a period of two months from the date of receipt of certified copy of this order by considering the grounds mentioned in the appeal; averments made in these writ petitions and the submissions

made by learned counsel for the petitioner(s) as mentioned above.

However, in case the claim of the petitioner(s) is considered by the Appellate Authority, the necessary action be taken and in case, any adverse order is passed, the petitioners are at liberty to avail the appropriate remedy.

08.11.2016
neetu

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	√ Yes/No
Whether Reportable	√ Yes/No