

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

CWP No.12631 of 2015

Date of Decision:20.02.2017

S.I. Krishna Devi

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. S.N. Yadav, Advocate for the petitioner.

Mr. Sushil Gautam, D.A.G. Haryana.

P.B. BAJANTHRI J. (Oral)

In the instant petition, the petitioner has questioned the validity of the order dated 4.6.2015 by which the Director General of Police, Haryana set aside the order dated 18.10.2013 passed by the Inspector General of Police insofar as accepting the petitioner's plea that Superintendent of Police has no authority to revert the petitioner from the post of Sub Inspector to that of Assistant Sub Inspector.

The petitioner is stated to have promoted to the post of Sub Inspector on 24.5.2001 w.e.f. 5.8.1992. Her services in the cadre of Sub Inspector were confirmed on 24.4.2003. While she was working was subjected to disciplinary proceedings on certain allegations which was ended in penalty of reversion from the post of Sub Inspector to that of Assistant Sub Inspector on 30.10.2006.

Feeling aggrieved by the order of reversion, she preferred an appeal before the appellate authority. Her appeal was rejected. Consequently, revision was filed. Revision was also rejected. Thus, she has filed a writ petition before this Court. The writ petition was disposed of.

Consequently, Inspector General of Police issued a show cause notice to the petitioner. Pursuant to the show cause notice, the petitioner submitted her reply on 1.7.2013. The Inspector General of Police after examining the reply of the petitioner in particularly the Superintendent of Police has no authority to revert the petitioner from the post of Sub Inspector to that of Assistant Sub Inspector having regard to the order of promotion of the petitioner to the post of Sub Inspector. The Director General of Police took a suo moto notice in respect of allowing the petitioner's grievance by the Inspector General of Police while issuing show cause notice to the petitioner. After receipt of reply from petitioner, the Director General of Police proceeded to pass order dated 4.6.2015 by which the Inspector General of Police order dated 18.10.2013 has been set aside while restoring the order passed by the Superintendent of Police insofar as order of reversion is concerned. Thus, the petitioner has filed this petition challenging the order dated 4.6.2015.

Learned counsel for the petitioner vehemently contended that having regard to the nature of promotion order of the petitioner to the post of Sub-Inspector vide Annexure P-1 which has been issued by the Inspector General of Police and further order of confirmation in the rank of Sub Inspector is by Inspector General of Police, Rohtak Range, Rohtak. Thus, the Superintendent of Police, Jhajjar has no authority to revert the petitioner from the post of Sub Inspector to that of Assistant Sub Inspector. It was further submitted that the Inspector General of Police rightly held that the Superintendent of Police has no power to revert the Sub Inspector to that of Assistant Sub Inspector. Hence, order dated 4.6.2015 passed by the Director General of Police is liable to be set aside.

On the other hand, learned counsel for the respondents-State submitted that as per rule 16.1 read with schedule of PPR, it is evident that the Superintendents of Police and Deputy Superintendent (Administrative) are empowered to impose penalty of reduction in rank insofar as Sergeants, Sub Inspector and Assistant Sub Inspector. Therefore, the petitioner has not made out a case so as to interfere with the order passed by the Director General of Police dated 4.6.2015.

Heard learned counsel for the parties.

Crux of the matter is whether Superintendent of Police is empowered to impose the penalty of reduction in rank against Sub Inspector or not?

No doubt it is true that Rule 16.1 read with schedule of PPR provides for Superintendent of Police to exercise power of imposing penalty of reduction in rank against Sergeants, Sub Inspector and Assistant Sub Inspector. At the same time, it is necessary to look into the promotion order given to the petitioner is by the Inspector General of Police. Thus, the appointing authority in the present case insofar as petitioner is concerned to the post of Sub Inspector is Inspector General of Police, Rohtak Range, Rohtak. Her confirmation to the post of Sub Inspector has been ordered by Inspector General of Police, Rohtak. Therefore, the Inspector General of Police would be disciplinary authority insofar as petitioner is concerned irrespective of the Rule 16.1 read with the schedule for the reasons that appointing authority would be always a disciplinary authority and disciplinary authority would not be below the rank of appointing authority. In the present case, rightly or wrongly, the petitioner has been promoted to the post of Sub Inspector by the Inspector General of Police. Consequently,

insofar as the petitioner is concerned, the disciplinary authority would be Inspector General of Police. Under Article 311 of the Constitution, it is for the actual appointing authority who can exercise the power of imposing the penalty. Extract of Article 311(1) of the Constitution reads as under:

“311. Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State.-(1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.”

Having regard to the factual aspects read with constitutional provision, the Superintendent of Police has no authority to impose the penalty of reversion on the petitioner having regard to the fact that the petitioner was promoted and confirmed in the post of Sub Inspector by Inspector General of Police, Rohtak Range, Rohtak.

Accordingly, order dated 4.6.2015 passed by the Director General of Police, Haryana is set aside.

Petition stands allowed in the above terms.

20.02.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No