

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

CWP No.14373 of 2016(O&M)

Date of Decision: 10.10.2017

Wassan Singh

--Petitioner

Versus

State of Punjab and others

--Respondents

**CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.**

Present:- Mr. Rishu Mahajan, Advocate for the petitioner.

Mr. Avinit Avasthi, A.A.G., Punjab.

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**TEJINDER SINGH DHINDSA.J**

Petitioner, who is serving as a Head Constable under the Punjab Police, has filed the instant petition seeking quashing of the order dated 12.3.2003 (Annexure P-1), whereby his name was removed from the Promotion List (C-II). Further challenge is to the order dated 28.1.2013 (Annexure P-6), whereby the recommendations forwarded by the S.S.P., Amritsar (Rural) for restoration for Promotion List C-II stands declined by the Inspector General of Police, Border Range, Amritsar.

Having heard counsel for the parties at length, this Court is of the considered view that it is a fit case for the matter to be remanded back to the third respondent and for an order to be passed afresh.

Briefly it may be noticed that the petitioner was enlisted in the Police Department as a Constable on 12.5.1986. His name was brought on List C-II (Exemptee) and he was promoted as officiating Head Constable vide order dated 28.12.1989. A departmental inquiry was initiated against the petitioner as also another police official in the year 1989 on the allegations that when the petitioner was posted at Police Station, Jandiala he

along with the co-delinquent had brought one lady in the police station on 15.9.1989 and kept her illegally in the govt. quarter. The departmental inquiry culminated in findings against the petitioner and a major punishment of forfeiture of two years service with permanent effect was imposed by the punishing authority vide order dated 27.2.1991. There is no challenge to such order of imposition of major penalty.

Petitioner was reverted to his substantive rank of Constable w.e.f. 1.7.1993 vide order dated 31.8.1993.

Apparently, 12 years after the imposition of the major penalty the impugned order dated 12.3.2003 (Annexure P-1) was passed by S.S.P., Majitha removing the name of the present petitioner along with certain others from Promotion List C-II (Exemptee) citing the reason that the work and conduct has been found to have deteriorated.

Rule 13.8 (A)(1) of the Punjab Police Rules, 1934 reads as follows:-

***“13.8A. Disqualification for admission to or retention in Lists A, B or C-(1) The infliction of any major punishment shall be a bar to admission to or retention in lists A, B or C provided that (a) for special reasons to be recorded by the Superintendent in each case and subject to confirmation by the Deputy Inspector General, this disqualification may be waived; and (b) after six months' continuous good conduct in the case of censure or confinement to quarters or on expiry of the period of reduction in the case of reduction for a specified period, a constable may be readmitted at the discretion of the Superintendent.”***

A bare perusal of the statutory provision makes it clear that infliction of any major punishment would be a bar to admission or retention in List A, B or C. However, proviso (a) states that for special reasons to be

recorded by the Superintendent in each case and subject to confirmation by the Deputy Inspector General such disqualification may be waived of.

During the course of arguments, it has gone uncontroverted that an order dated 28.9.2012 has been passed by the S.S.P., Amritsar (Rural) and in terms of which the S.S.P., Amritsar (Rural) has made recommendations for restoration of the name of the petitioner on List C-II in the light of the following reasoning:-

*“PHC Wassan Singh No.614/ASR was also called for personal hearing in connection with his representation and for submission of material with him in his favour and today he appeared before the undersigned and after hearing him personally I feel that injustice has been done to him because in one hand he was punished severely by forfeiting his two years approved service with permanent effect in the year 1991 and on the other hand after the span of approximately 12 years this office came to know that his work and conduct is deteriorated and revoked his name from list C-II. This is injustice with him and attracts principles of natural justice. Under these circumstances the representation dated 12.10.2011 submitted by PHC Wassan Singh No.614/ASR is hereby disposed off with the remarks that his case be moved separately to the range office with recommendations for restoration of list C-II to this official from the date of reversion and he should be granted all the promotional benefits whatsoever was given to his juniors.*

*Issue order in OB and all concerned to note.*

*Sd/-*

*Preetpal Singh Virk, PPS  
Sr. Superintendent of Police,  
Amritsar (Rural).”*

Apparently, the recommendations contained in the order dated 28.9.2012 made by the S.S.P., Amritsar (Rural) have not found favour with

the Inspector General of Police, Border Ranger, Amritsar vide impugned order dated 28.1.2013 (Annexure P-6).

Perusal of the order at Annexure P-6 reveals that the only basis disclosed is that previous appeals preferred by the petitioner against the order dated 10.3.2003 whereby his name was removed from Promotion List C-II stood rejected on 19.4.2004 and 2.11.2004. However, the recommendations made by S.S.P., Amritsar (Rural) vide order dated 28.9.2012 have not been dealt with. The proviso (a) under Rule 13.8 (a) (1) envisages the disqualification to be retained in List A, B or C on account of imposition of a major punishment to be waived for special reasons to be recorded by the Superintendent and subject to confirmation by the Deputy Inspector General. In other words, as per spirit of the proviso it was the reasoning recorded by the S.S.P., Amritsar (Rural) that had to be dealt with by the Inspector General of Police and a view had to be formed with regard to confirmation of the same or otherwise. This is precisely the aspect which has been completely overlooked while passing the impugned order dated 28.1.2013 (Annexure P-6). Accordingly, the order dated 28.1.2013 (Annexure P-6) cannot sustain.

For the reasons recorded above, order dated 28.1.2013 at Annexure P-6, passed by the Inspector General of Police, Border Range, Amritsar, is set aside. The matter is remanded back to the competent authority for passing of an order afresh and as per Punjab Police Rules, within a period of three months from the date of receipt of a certified copy of this order.

It is, however, clarified that the observations made by this Court would not be construed as an opinion on the merits of the case.

Petition is disposed of in the aforesaid terms.

**(TEJINDER SINGH DHINDSA)**  
**JUDGE**

**10.10.2017**  
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Whether speaking/reasoned: Yes/No  
Whether Reportable: Yes/No