

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

CWP No. 181 of 2014 (O&M)
Date of decision: 23.2.2017

Jasvir Singh Warder

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

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

Mr. T.N. Sarup, Additional Advocate General, Punjab.

JAISHREE THAKUR, J.

1. The petitioner was appointed as Warder on ad hoc basis in the year 1984. Thereafter, he was promoted as Headwarder by order dated 11.05.2010 and subsequently demoted by order dated 09.06.2011. The petitioner filed his objections to order demoting him by way of an appeal to the Additional Director General of Police. Instead of considering the appeal, the matter was marked to the Superintendent Head Quarter Jail, for taking immediate action on the appeal on the basis of the record. The appeal was decided by the Superintendent and came to be rejected by order dated 07.10.2013. Aggrieved against the said order, the instant writ petition has been filed seeking a writ in the nature of certiorari for quashing of the same.

2. Learned counsel appearing on behalf of the petitioner contends that the impugned order passed dated 07.10.2013 on the appeal filed by the

petitioner deserves to be set-aside on the short ground that it has been passed by a person not competent to do so. It is argued that it was the Superintendent of Police himself who had cancelled the the promotion given to the petitioner and other similarly situated by order dated 09.06.2011 which order was challenged in the appeal. The appeal has been decided, on remand by the Additional Director General of Police, by the Superintendent of Police, which is an authority that cannot sit in appeal over its own orders. As per Rule 17 of the Punjab Jail Department Executive Staff (Punishment And Appeal) Rules, 1943, any order passed by the Superintendent is to be challenged before the Inspector General.

3. Per contra, learned counsel for the respondent state submits that the petitioner herein has no cause to institute the instant writ petition since he had consented to the reversions/demotion .

4. I have heard the counsel for the parties and have also gone through the record of the case.

5. Admittedly, the petitioner had been given a promotion to the post of Headwarder in the pay scale of 5910–2020+2400 by office dated 11.5.2010. This order was subsequently withdrawn by the Superintendent of Police on 09.06.2011. Against the said order an appeal was preferred to the Additional Director General of Police, who, in turn, marked back to Superintendent of Police to decide the matter on the basis of the record. The appeal was disposed of by the Superintendent of Police who was a person not competent to decide the appeal as per Rule 17 of Punjab Jail Department Executive Staff (Punishment And Appeal), Rules. Any order passed by a person who was not competent to do so is an order which is void and

deserves to be set-aside. Moreover, it cannot be lost sight of that the Superintendent of Police could not have sat over the appeal over his own order. Once the rules stipulate that it is the Inspector General of Police who is a competent person under the rules to have decided the appeal the matter should have been marked to him.

6. Therefore, this court has no hesitation in setting aside the order passed on 07.10.2013 and the matter is demanded back for the appeal to be decided by a competent person under the rules. The appeal should be disposed of within a period of 2 months on receipt of certified copy of the order after giving due notice and opportunity of hearing to the petitioner herein.

7. The writ petition stands disposed of accordingly .

23.2.2017
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No