

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

**CWP No.25405 of 2014 (O&M)
Date of Decision : 17.05.2017**

Hawa Singh

..... Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Rahul Sharma-I, Advocate
for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

AJAY TEWARI, J.(ORAL)

This petition has been filed for quashing the impugned orders Annexure P-4 dated 30.08.2008, Annexure P-5 dated 04.12.2008 and Annexure P-7 dated 08.10.2009.

The petitioner who was a Head Constable was charge-sheeted alongwith an ASI for bribery. The allegation was that the ASI had demanded a bribe of Rs.10,000/-. The complainant had asked him to come in the evening and had then reported the matter to the police where a trap was laid. As per the arrangement between the complainant and the ASI, the ASI came to the house of the complainant in the evening where the complainant persuaded him to take Rs.1,000/- instead of Rs.10,000/- with the promise that the remaining would be paid in the next day. Thereafter the ASI handed the money to the petitioner and at that stage a raiding party

appeared and apprehended both of them. The FIR No.103 dated 09.05.2007 was registered against them under Section 7 and 13 of the Prevention of Corruption Act, 1988. The provision of Corruption Act was initiated against both of them as was a departmental inquiry. In the departmental inquiry it was established that though the petitioner had not made a demand for money and nor had the money been given to him but the recovery was made from his pocket. When the matter came up to the disciplinary authority, it held the following remarks :-

“I have gone through the departmental enquiry file carefully. It is correct that the demand of illegal gratification was put before the complainant and money was accepted by the said ASI but the said ASI put the money in the pocket of EHC Hawa Singh. Resultantly, the money was recovered from his pocket. He has been convicted u/s 7/13 of P.C. Act in the above noted case for accepting illegal gratification and sentenced to under go one year rigorous imprisonment and fine of Rs.1000/- has also been imposed upon him. Hence, this plea of the defaulter has no force and the same is rejected.”

The appeal and revision were also dismissed. The petitioner filed CWP No.17582 of 2012 which was disposed of on 10.09.2012 with the following order :-

*“Counsel for the petitioner, after arguing for some time, prays for withdrawal of the writ petition at this stage with liberty to challenge the impugned order after the acquittal of the petitioner, if granted by this Court in Criminal Appeal No. 1027 SB of 2008 titled as **Hawa Singh EHC vs. State of Haryana.***

Dismissed as withdrawn with the liberty aforesaid.”

The petitioner having been acquitted in appeal is before this Court. The contention of the learned counsel for the petitioner is that the disciplinary authority as well as the superior authorities primarily relied upon the conviction of the petitioner to justify the order of punishment and therefore the order is illegal because the petitioner has been acquitted and that judgment has become final and he therefore prays that the order of dismissal be set aside and the petitioner be re-instated with full back wages.

Learned Senior DAG has fairly accepted that while passing the dismissal order the disciplinary authority and the superior authorities relied upon the conviction of the petitioner. He, however, states that the relief claimed by the petitioner can not be granted but it would be an appropriate case where the competent authority be now directed to re-decide the issue after taking into consideration the fact that the petitioner has been acquitted.

I find this submission to be fair and just in the circumstances of the case and consequently the impugned orders of punishment and the appellate order and the revisional orders are set aside. This however would not automatically translate into the re-instatement of the petitioner which would depend upon the fresh order to be passed by the disciplinary authority. Seeing that the petitioner has now faced these proceedings for the last more than one decade, the respondent No.4 is directed to take a fresh decision on the inquiry report in accordance with law after giving the petitioner one opportunity of personal hearing within a period of 3 months from the date of receipt of a certified copy of this order.

Petition stands disposed of.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

17.05.2017
pooja sharma-I

(AJAY TEWARI)
JUDGE

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