

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

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**RSA-1779-2013 (O&M)
Date of Decision: 8.12.2017**

EX.. CONSTABLE KARNAIL SINGH

...APPELLANT

VS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Rishu Mahajan, Advocate
for the appellant.

Mr. H.S.Sitta, AAG, Punjab

AJAY TEWARI, J.(Oral)

This appeal has been filed against the concurrent judgments of the Courts below dismissing the suit filed by the appellant.

Brief facts of the case are that the appellant was working as Constable in the Punjab Police Department. The appellant was dismissed from service vide order dated 3.1.2006 on the charge of remaining absent for six months and 21 days (from 28.12.2004 to 18.7.2005) whereas the appellant was already placed under suspension vide order dated 4.11.2004 in the co-related case and was reinstated vide order dated 15.10.2005 vide which one year approved service of the appellant was forfeited with future effect and reinstated the appellant with further order that the appellant would not be entitled to anything more than that of the subsistence allowance already paid during suspension period i.e. w.e.f 4.11.2004 to 18.7.2005.

The short ground raised by the appellant is that at the time when he was dismissed from service the fact that he had already become entitled to

pension was not considered in term of Rule 16.21 of Punjab Police Rules, 1934. He has relied upon the judgment of this Court in the matter of Surinder Singh (S.I) vs. State of Punjab and others reported as 2008(4)RSJ 613 and Dhan Singh vs. State of Haryana and others reported as 2009 (1) RSJ 62.

Learned Assistant Advocate General has argued that service record of the appellant was considered; however he has admitted this exact issue which is being now raked up by the counsel for the appellant has not been considered.

In the circumstances, the matter has to be remanded back to the Inspector General of Police (who had passed the impugned order of punishment) to reconsider the matter of punishment in terms of Rule 16.21 (supra). It is made clear that any benefit which the appellant may be entitled to would be on the basis of the fresh order which would be passed and merely because punishment order has been set aside would not entitle the appellant to any consequential benefit at this stage. Let a fresh order be passed within 3 months from the date of receipt of certified copy of this judgment. It is further clarified that in case no order is passed within the aforesaid period the respondents would be liable to pay costs of Rs. 10,000/- per month till such time order is passed. It is made clear that the finding of guilt is not interfered with.

The appeal stands partly allowed.

Since the main case has been decided, the pending C.M, if any, also stand disposed of.

8.12.2017
anuradha

(AJAY TEWARI)
JUDGE

-	Whether speaking/reasoned	-	Yes/No
	Whether reportable	-	Yes/No