

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

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**RSA-2046-1996 (O&M)
Date of decision:25.04.2018**

The State of Punjab and another

...Appellants

Versus

S.I. Gurmeet Singh

.... Respondent

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

Present: Mr. RBS Chahal, Addl. A.G. Punjab.

Mr. K.S.Kahlon, Advocate for the respondent.

P.B. BAJANTHRI, J. (ORAL)

In the instant appeal, appellants have questioned the validity of judgments of the trial as well as appellate courts dated 17.02.1994 and 15.03.1996. Respondent while working as an Assistant Sub-Inspector, he was promoted to the post of Sub-Inspector by the Deputy Inspector General of Police, Ferozepur Range. While respondent was working as Sub-Inspector he was subjected to disciplinary proceedings by the Senior Superintendent of Police, Ferozepur and concluded in imposing the penalty of forfeiting of one year approved service of the respondent. Thereafter, respondent had preferred an appeal which was rejected by the Deputy Inspector General of Police, Ferozepur Range, Ferozepur Cantt. Feeling aggrieved by the orders of disciplinary as well as appellate authorities he

filed suit before the trial court. Trial court decreed the suit in favour of the respondent. Thereafter appellate court passed order against the appellants. Hence the present petition.

2. Learned counsel for the appellants submitted that both the courts below have erred in holding that Senior Superintendent of Police is not appointing authority and so also disciplinary authority on the score that Rule 12.1 of the Punjab Police Rules, read with Schedule which assigned Senior Superintendent of Police would be the appointing and disciplinary authority insofar as Sub-Inspector of Police. If the respondent was promoted by the Deputy Inspector General of Police that does not take away the power of the Senior Superintendent of Police to the extent of appointing as well as disciplinary authority in respect of Sub-Inspectors. In support of the said contention learned counsel for the appellant relied on the Supreme Court decision titled as *State of Punjab versus Manohar Lal* reported in 1986 (sup) SCC 524.

3. Per contra, learned counsel for the respondent submitted that there is non-compliance to Rule 16.24. Further inquiring officer's report has not been made available to the respondent before imposing the penalty. It was also contended that copy of the complaint was not made available to the respondent. It is also submitted that there is no error committed by the courts below in respect of identifying disciplinary authority insofar as respondent is concerned having regard to the fact that respondent was promoted to the post of Sub-Inspector from the post of Assistant Sub-Inspector by the Deputy Inspector General of Police who is superior

authority to the identified/designated authority namely Senior Superintendent of Police under Rule 12 read with Schedule of Punjab Police Rules. Learned counsel for the respondent submitted that respondent was actually promoted by the Deputy Inspector General of Police to the post of Sub-Inspector even though Senior Superintendent of Police was competent and it was not rectified. Consequently, Deputy Inspector General of Police would step into the shoe of appointing and disciplinary authority insofar as respondent is concerned with reference to nature of promotion order to the post of Sub-Inspector issued by the Deputy Inspector General of police.

4. Heard the learned counsel for the parties.

5. Crux of the matter in the present petition is insofar as respondent is concerned whether disciplinary and appointing authority is Senior Superintendent of Police or Deputy Inspector General of Police for the purpose of taking any action against the respondent in the disciplinary proceedings? It is undisputed that respondent was promoted to the post of Sub-Inspector by the Deputy Inspector General of Police. No doubt specific rule provides in respect of appointing and disciplinary authority to the post of Sub-Inspector is Senior Superintendent of Police. Whereas, respondent is concerned he has been promoted to the post of Sub-Inspector by the Deputy Inspector General of Police and not Senior Superintendent of Police. Therefore, appointing authority insofar as respondent to the post of Sub-Inspector is concerned it is Deputy Inspector General of Police even though he is superior to the Senior Superintendent of Police. As long as order of

promotion is not modified to the extent of passing order of promotion by the competent authority like Senior Superintendent of Police who is below the rank of Deputy Inspector General of Police in that event status of appointing and disciplinary authority would be Deputy Inspector General of Police. Thus, there is no infirmity in the orders passed by the courts below. Insofar as decision rendered in ***Manohar Lal's*** case cited (supra) is concerned it is to be noted that actually promotion order of respondent to the post of Sub-Inspector is by Deputy Inspector General of Police. Even if Rule 12.1 read with the Schedule is taken into consideration, Rule 12.1 is not operated for the purpose of respondent's promotion to the post of Sub-Inspector. Therefore, cited decision is distinguishable. Actually appointing authority would be disciplinary authority since respondent had been promoted to the post of Sub-Inspector by the Deputy Inspector General of Police, status of Senior Superintendent of Police as appointing and disciplinary authority insofar as respondent is concerned it would be wiped out. Consequently, Deputy Inspector General of Police would step into the shoe of disciplinary and appointing authority. Supreme Court in the case of ***Government of Andhra Pradesh and another versus N.Ramanaiah*** reported in (2009) 7 Supreme Court Cases 165 in para 24 held as under:-

“24. *In Sampuran Singh Vs. State of Punjab this Court observed that (SCC p.203, para 11)*

"11.....In view of Article 311 (1) of the Constitution the removing authority cannot be subordinate in rank to the appointing authority. By necessary implication the removing authority may be higher in rank to the appointing

authority"

(emphasis supplied).

There is a compliance with clause (1) of Article 311 if the dismissing authority is not lower in rank or grade than the appointing authority. [See State of U.P. v. Ram Naresh Lal and Jai Jai Ram v. U.P. SRTC]."

In view of these facts and circumstances, there is no error in the judgments dated 17.02.1994 and 15.03.1996 of the courts below. Even on other grounds like non-furnishing of copy of the complaint and Inquiry Officer's report, there are errors and violation of statutory rules.

6. Accordingly, appeal stands dismissed.

25.04.2018

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No