

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

**CWP-3008-2013 (O&M)**

Date of Decision: 30.10.2018.

Kashmir Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

**CORAM : Hon'ble Mr. Justice Jitendra Chauhan**

Present : Mr. Arun Takhi, Advocate,  
for the petitioner.

Mr. Vikas Mohan Gupta, Addl. AG Punjab.

**JITENDRA CHAUHAN.J.(ORAL)**

The petitioner challenges the order dated 14.06.2012 (Annexure P-16) passed by respondent No.4 vide which he was dismissed from the service.

It is contended that the petitioner was born on 15.01.1965 passed his matriculation examination in the year 1985 from Himachal Pradesh Board of School Education, Dharamshala. He was appointed as SPO by respondent No.4 on 06.11.1992. An FIR No. 72 dated 13.06.2012 was registered against the petitioner under Sections 420, 465, 466, 468, 471 and 120-B IPC at Police Station City Jagraon, District Ludhiana Rural on the allegations that he secured appointment after furnishing a fake date of birth certificate. On the basis of the FIR, the petitioner was dismissed from the service vide order dated 14.06.2012 (Annexure P-16). It is asserted that before passing the impugned order dated 14.06.2012 (Annexure P-16), no regular inquiry was conducted against the petitioner, therefore, the impugned order is bad in law as it

violates the principle of natural justice. The petitioner stands acquitted in FIR No. 72 dated 13.06.2012 vide judgment dated 12.07.2018 passed by Judicial Magistrate First Class, Jagraon.

Learned State counsel does not controvert the fact that no departmental inquiry was conducted against the petitioner.

Heard.

The relevant portion of the impugned order dated 14.06.2012 (Anneuxre P-16) reads as under:-

*Thereafter Shri Harjit Singh Panu, PPS, Superintendent of Police (D) Ludhiana (Rural) after having looked into the inquiry report conducted by the Deputy Superintendent of Police Jagraon, Fauji Missal of SPO Kashmir Singh No. 81/C and other related record, while sending the detailed report recommended to take action on the following two points:-*

*1. "SPO Kashmir Singh No. 81/C son of Kaplu Ram Caste Rankar resident of village Kural Police Station Bhwarna, District Kangra (Himachal Pradesh) by enclosing the fake date of birth certificate bearing date of birth 15.01.1971 at the time of recruitment and on being absent from dated 09.09.2011 to 29.01.2012 and now being continuously absent from 31.01.2012 be dismissed from police department."*

*2. In connection with enclosing fake certificate bearing date of birth 15.01.1971 at the time of his appointment by SPO Kashmir Singh No.81/C, after registration an FIR against him under Section 420/465/466/468/471/120-B IPC, the investigation be conducted.*

*SPO Kashmir Singh No. 81/C by showing his date of birth as 15.01.1971 got appointed at the time of recruitment of SPO and later on original matriculation certificate bearing date of birth as 15.01.1965 got attached with his Fauji Missal with the connivance of dealing hand of the concerned branch, in this way, the fraud having been committed by him with police department, FIR No. 72 dated 13.06.2012 under Section 420/465/466/468/471/120-B IPC was registered against this SPO in Police Station City Jagraon and SPO Kashmir Singh No.81/C is continuously absent till today. Therefore, SPO Kashmir Singh No. 81/C is dismissed today on dated 14.06.2012 before noon."*

The issue in question pertains to submission of fake date of birth certificate at the time of induction. A perusal of the impugned order (Annexure P-16) shows that impugned order of dismissal is per se stigmatic. The Court feels that the petitioner was entitled to grant of due and reasonable opportunity in accordance with the principles of '*Audi Alteram Partem*'. No enquiry was admittedly held and the petitioner was not associated with the fact finding proceedings. In the circumstances, there was complete violation of the principles of natural justice and the impugned order (Annexure P-16) is vitiated and bad in law. In **Raj Kumar vs. State of Punjab 1999(3) SCT (P&H) 91**, it was held as under:-

*“6. A perusal of the above provision shows that an Officer whose work and conduct are not found to be satisfactory can be discharged by the Superintendent of Police without the issue of any notice. This power is, undoubtedly, available to the respondents. However, in the present case a perusal of the impugned orders show that the petitioners were accused of having teased a lady. It was observed that they had used vulgar and condemnable language. It has been further observed that the petitioners are not "fit for working as responsible Police Officers". On this basis, the impugned orders have been passed. Even though it has been said that the petitioners were discharged, yet the fact remains that allegations were levelled and a finding was recorded against them. In this situation, the orders can't be sustained under Clause 9 of the standing order. The petitioners were entitled to the grant of a due and reasonable opportunity in accordance with the principles of natural justice. No enquiry was admittedly held. The petitioners were not associated with the fact finding proceedings. There was violation of the principles of natural justice. As a result, the impugned orders are vitiated.*

*“7. In view of the above, the orders dated July 9, 1998 by which the petitioners were discharged from service are set aside. The petitioners shall be entitled to all consequential benefits. This will, however, not preclude the respondents from proceeding against the petitioners in accordance with the law. No costs.*

*Petition allowed.”*

Consequently, the present civil writ petition is allowed.

The impugned order dated 14.06.2012 (Annexure P-16) is set aside. The respondents are free to initiate fresh proceedings against the petitioner in accordance with law.

30.10.2018.

SN

**(JITENDRA CHAUHAN)**

**JUDGE**

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

**Whether reportable :                                Yes/No**