

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

CWP-6543-2015 (O&M)
Date of decision : 16.01.2018

Balkaran Singh

...Petitioner(s)

Versus

The State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. A.K. Walia, Advocate,
for the petitioner(s).

Ms. Sudeepti Sharma, Addl.A.G., Punjab.

JITENDRA CHAUHAN, J. (Oral)

By way of the instant writ petition filed under Articles 226/227 of the Constitution of India, the petitioner, *inter alia*, seeks issuance of a writ in the nature of Mandamus/Certiorari for reconsidering/withdrawing the impugned order of dismissal of the petitioner from service dated 24.10.2010 (Annexure P-1/T).

Learned counsel contends that the punishment awarded to the petitioner is extreme. The trial Court has wrongly recorded that the maximum punishment in the given offence was seven years, whereas, at the given point of time, it was three years. He further states that Rule 16.2 of the Punjab Police Rules was re-examined by a Division Bench of this Court and vide judgment (Annexure P-7), the instructions (Annexure P-2) on the basis of which the impugned order of dismissal has been passed, stands quashed. Learned counsel states that he limits his prayer for re-consideration of his case for reinstatement in the light of the judgment

(Annexure P-7) passed by Division Bench.

On the other hand, learned State counsel submits that the petitioner was dismissed from service in the year 2010. Against the dismissal, the writ petition was preferred in the year 2013, which was subsequently withdrawn and the present writ petition was instituted in the year 2015, after a delay of two years, without there being any explanation.

I have heard learned counsel for the parties and perused the case file.

This is to be noticed that as on date, the petitioner is a convict. Division Bench in para No.9 of its judgment (Annexure P-7) observed that the normal rule for any violation under Rule 16.2 of the Punjab Police Rules, 1934, is dismissal from service. However, in certain exceptional cases, a lenient view can also be taken. The petitioner is a member of the disciplined force. He has indulged in outraging the modesty of his colleague. After the trial, the petitioner was convicted vide judgment dated 04.07.2009 and sentenced to undergo rigorous imprisonment for a period of 01 year. In a recent judgment rendered by Hon'ble the Supreme Court in ***Union Territory, Chandigarh Administration and others Vs. Pradeep Kumar and another***, Civil Appeal No.67 of 2018, decided on 08.01.2018, it has been observed as under:-

“13. It is thus well settled that acquittal in a criminal case does not automatically entitle him for appointment to the post. Still it is open to the employer to consider the antecedents and examine whether he is suitable for appointment to the post. From the

observations of this Court in Mehar Singh and Parvez Khan cases, it is clear that a candidate to be recruited to the police service must be of impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged, it cannot be presumed that he was honourably acquitted/completely exonerated.....”

Considering the pious duties of the petitioner by virtue of his being member of a disciplined force to protect life, liberty and honour of the citizens, the nature of offence committed by him, particularly, when the complainant is a colleague of the petitioner, does not leave any scope for taking a lenient view in the matter. Rather the Court feels that the petitioner has been left out leniently and calls for enhancement of sentence.

In view of the above discussion, this Court feels that there is no merit in the present case and accordingly, the same is dismissed.

16.01.2018
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No