

LPA No.1478 of 2017 (O&M)

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

**LPA No.1478 of 2017 (O&M)
Date of decision : 10.10.2018**

State of Haryana and others

... Appellants

Versus

Sub Inspector Krishna Devi

... Respondent

**CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Samarth Sagar, Addl. A.G., Haryana,
for the appellants.

Mr. Aditya Yadav, Advocate
for the respondent.

MAHESH GROVER, J. (ORAL)

C.M. No.3157-LPA of 2017

Delay of 133 days in filing the appeal is condoned for the reasons set out in the application.

C.M. stands allowed.

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The present appeal is directed against the judgment of learned Single Judge dated 20.02.2017.

Although the facts do find mentioned in the impugned order, but for the purposes of forming a complete narrative of our orders, we deem it appropriate to set it down here as well.

The respondent was charge-sheeted while serving Police Department as a Sub Inspector in the year 2006. There were serious

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allegations of accepting bribe and the Enquiry Officer found substance in them, resulting in show cause notice dated 09.10.2006 to the respondent, asking her to reply. The explanation was not accepted and reversion of the respondent was ordered by the Superintendent of Police, vide order dated 30.10.2006. The appeal and revision petition, which was preferred against the orders, were dismissed and consequently, the respondent challenged these orders of reversion by way of CWP No.5492 of 2008. As a consequence of the reversion order and the charges against the respondent, her ACRs were downgraded and a show cause notice, in this regard, was issued to the respondent on 13.06.2013 by the Inspector General of Police, Rohtak Range. The respondent filed her reply, which was considered, but not accepted. Consequently, the Inspector General of Police, Rohtak Range, passed an order dated 18.10.2013. In conclusion, the Inspector General of Police observed as follows:-

"6. In view of above discussion made in detail and in the interest of justice and fair play, the undersigned sets aside the reversion of L/ASI Krishna Devi No.RR/2 which was made from the rank of Sub Inspector to ASI, modifies her date of confirmation from 31.08.1993 to 31.07.1992 in the rank of ASI and she is resorted at the place of her original seniority in the rank of Sub Inspector (female cadre) i.e. immediate below the name of SI Vidyawati No.RR/1 (now DSP) and immediate above the name of L/SI Mithlesh Kumari No.153/RR (now Inspector). Her promotion list F w.e.f. 03.04.2004 and promotion as Inspector w.e.f. 17.05.2004 case will be sent shortly and separately to the DGP/Haryana for further necessary action. A copy of this order may be supplied to L/ASI Krishna Devi No.RR/2 free of cost."

The Director General of Police, Haryana, on its own, took up

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the matter and while noticing the facts leading to reversion issued a show cause notice on 09.12.2014 and observed therein that he was provisionally of the opinion that the order dated 18.10.2013 passed by the Inspector General of Police needed to be set aside and the order dated 31.10.2006 passed by the Superintendent of Police, Jhajjar, deserves to be restored.

For the purposes of the reference, relevant portion of the show cause notice is extracted hereinbelow:-

"In view of above, I am provisionally of the opinion that the order dated 18.10.2013 passed by the then IGP/Rohtak Range be set aside and order dated 31.10.06 passed by SP/Jhajjar may be restored. However, before taking the proposed action, you are hereby given an opportunity to show cause as to why the proposed action may not be taken against you. Your written reply, if any, should reach the undersigned within 15 days from the receipt of this notice failing which it will be presumed that you have nothing to say in your defence and the proposed action will be taken accordingly."

Finally, vide order dated 04.06.2015, the Director General of Police set aside the order of the Inspector General of Police dated 18.10.2013 and remanded the matter back regarding downgraded of the ACR for the period of 2004-05. This order dated 04.06.2015 was challenged by the respondent, resulting in the impugned order dated 20.02.2017, whereby learned Single Judge after noticing the facts observed that the Superintendent of Police had no authority to impose penalty of reversion upon the petitioner, having regard to the fact that the petitioner was promoted and confirmed on the post of Sub Inspector by the Inspector General of Police, Rohtak Range. Accordingly, the order dated 04.06.2015 was set aside. In the interregnum, the petitioner withdrew the petition bearing

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No.5492 of 2008 on 10.04.2015. It would be pertinent to mention here that the said writ petition was directed against the order of reversion and the subsequent orders before the Inspector General of Police/Director General of Police, were restricted only to the proceedings arising out of downgrading of the ACRs, as a consequence of involvement in corruption charges, which stood established in the enquiry, resulting in reversion as well.

This has now landed the respondent in a piquant situation, where she has withdrawn the writ petition challenging her reversion while order passed by the Director General of Police on 04.06.2015 also stands negated which would imply that the order of Inspector General of Police would stand revived.

Learned Single Judge completely lost sight of the fact that the order of Inspector General of Police dated 18.10.2013 could not have been passed qua aspect of the reversion as the only issue before him was of downgrading the ACRs as the reversion already stood effected with a challenge to it in appropriate proceedings vide CWP No.5492 of 2008.

The Director General of Police was right in passing the order dated 04.06.2015, but due to intervention of writ court, it has been set aside.

We are thus of the opinion that the order of the learned Single Judge was erroneous and deserves to be set aside for the simple reason that the order impugned in the writ proceedings was an order of the Director General of Police, rightly passed by noticing that the Inspector General of Police had exceeded himself in touching the aspect of reversion while proceedings before him were confirmed to challenge to downgrading of ACR. We, therefore, set aside the order of learned Single Judge and restore

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the order of the Director General of Police, which would imply that that proceedings would be confined to the downgrading of the ACRs. The respondent has withdrawn her challenge to the reversion order ostensibly swayed by the orders passed by the Inspector General of Police dated 18.10.2013 and has placed herself in predicament as she would now be deprived of her challenge to the reversion order.

There was indeed a justification with the respondent in withdrawing the earlier petition and it would be extremely harsh to deprive her of a challenge to the reversion order for the fault committed by the Inspector General of Police in passing the erroneous order. We, therefore, grant liberty to the respondent to revive the proceedings in CWP No.5492 of 2008.

The present appeal stands disposed of as above.

The proceedings regarding downgrading of the ACRs would now be considered in terms of the order passed by the Director General of Police.

**(MAHESH GROVER)
JUDGE**

**(AMIT RAWAL)
JUDGE**

10.10.2018
Yogesh Sharma

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**