

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA NO. 2454 OF 2017 (O&M) IN
CWP NO. 9948 OF 2015

Date of Decision : 05.02.2018

Ex-Head Constable Manjit Singh

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present : Mr. R. K. Malik, Senior Advocate with
Mr. Kuldeep Sheoran, Advocate,
for the appellant.

RAJESH BINDAL, J.

The order passed by the learned Single Judge dated 07.11.2017 dismissing the writ petition, has been impugned in the present intra-court appeal.

Challenge in the writ petition was to the orders passed by the authorities, whereby while exercising powers under Article 311(2)(b) of the Constitution of India and dispensing with the inquiry, the appellant was dismissed from service.

As noticed by the learned Single Judge in the impugned order, the appellant was appointed as Constable on 24.12.2004 and because of his good record, he was promoted as Head Constable on 03.05.2012. The

incident, on account of which the appellant was dismissed from service, happened on 22.10.2013, on the basis of which a criminal case was registered against the appellant on 24.10.2013.

The allegations against the appellant are that he asked one Inderjit, an employee of the scrap dealer Dharmender, to bring a pint of Signature brand liquor at the shop. On refusal, the appellant started beating Inderjit and poured petrol on him and lit the fire. Statement of the victim could be recorded only on 24.10.2013, as prior to that he was unfit to get his statement recorded. The victim was belonging to a Harijan community. It was under these circumstances that powers under Article 311(2)(b) of the Constitution of India were invoked and while dispensing with the inquiry, the appellant was dismissed from service on 25.10.2013. The order was upheld by the departmental authorities and by the learned Single Judge, as well.

The only contention raised by learned counsel for the appellant is that there is non-compliance to the provisions of Rule 16.3 of the Punjab Police Rules, 1934 (as applicable to Haryana) (hereinafter referred to as “the Rules”). It was further submitted that after the appellant was acquitted by the Court, after trial in the criminal case registered against him, there was no reason to uphold the order of dismissal by the Appellate/Revisional Authority. Once preliminary inquiry can be held, there was no reason that regular departmental inquiry could not be held.

We do not find merit in any of the submissions noticed above. One of the exception laid down in Rule 16.3 of the Rules, provides that when a police officer has been tried and acquitted by a criminal Court, he

shall not be punished departmentally on the same charge or on a different charge upon the evidence cited in the criminal case, unless in the opinion of the Court or Superintendent of Police, the prosecution witnesses have been won over.

A perusal of the order dated 25.10.2013, shows that it was specifically recorded that immediately after the victim was able to get his statement recorded, he stated the entire incident on the basis of which FIR was registered. Finding that the facts of case are such where departmental inquiry may not be feasible as it was a heinous crime committed against a person of scheduled caste community whose life and liberty has to be protected by the police force, he was dismissed from service.

A perusal of the judgment of learned Additional Sessions Judge, Rewari, shows that all the prosecution witnesses had in fact resiled from their earlier stand. This was the only reason for acquittal of the appellant after trial. It has been recorded by the Appellate Authority in the order dated February 18, 2014, that main reason of acquittal of the appellant in the criminal case was that the prosecutrix was totally under the influence of the appellant. So is the finding recorded by the Director General of Police, Haryana, in the order dated 25.02.2015 vide which the revision had been dismissed. The aforesaid facts clearly establish that not only the prosecution witnesses, even the victim had been won over by the appellant. Hence, it cannot be argued that the provisions of Rule 16.3 of the Rules have not been complied with. The circumstances of the case, as noticed above, clearly suggest that regular departmental inquiry was not possible.

For the reasons mentioned above, we do not find any error in the order passed by the learned Single Judge. Accordingly, the appeal is dismissed.

**(RAJESH BINDAL)
JUDGE**

**(ANUPINDER SINGH GREWAL)
JUDGE**

FEBRUARY 05, 2018
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Whether speaking/reasoned : YES/NO

Whether reportable : YES/NO