

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

CWP No. 27430 of 2013.

Date of Decision: 10.01.2019.

Resham Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Rohit Kapoor, Advocate,
for the petitioner.

Mr. Vikas Mohan Gupta, Addl. AG Punjab.

JITENDRA CHAUHAN.J.

By filing the present civil writ petition, the petitioner seeks quashing of letter No.12666 dated 23.10.2013 (Annexure P-4) issued by respondent No.2 vide which the order dated 30.03.2011 (Annexure P-3) re-instating the petitioner into service, was reviewed and revoked.

It has been contended that the petitioner was appointed as Constable on 01.03.1994 in the Punjab Armed Police Jalandhar Cantt. Thereafter the petitioner was transferred to 3rd Battalion, IRB, Ludhiana. When the petitioner was posted in Battalion Head Quarter, Ludhiana, he fell ill and proceeded on leave on 15.10.2001 . The petitioner remained under treatment of Doctor Shiv Kumar, S.K. Clinic, Mukarian till 01.11.2001. Thereafter, the wife of the petitioner fell ill and she remained under treatment at Narindras Hospital, Mukarian and Deep Hospital, Dasuya till 07.02.2002. The petitioner had submitted several applications for grant of leave on medical grounds. The petitioner reported back for duty on 07.02.2002 but he was not allowed to join. He was told that he had been dismissed from

service with effect from 07.02.2002 on the ground of absence from duty with effect from 16.10.2001. The petitioner filed departmental appeal which was dismissed vide order dated 05.09.2003. The petitioner filed civil suit in the Court of Civil Judge (Senior Division) Jalandhar which too was dismissed on 22.02.2011. Thereafter, he filed a mercy petition before respondent No.3. Vide order dated 30.03.2011 (Annexure P-3), the mercy petition was accepted and the petitioner was ordered to be reinstated in service. However, the penalty of dismissal from service was converted into a penalty of forfeiture of seven years' approved service and it was further ordered that the suspension period shall be treated as such only and that the period of absence will be treated as non duty period without pay. Thereafter, the petitioner joined his duties. All of a sudden, on 05.11.2013, the petitioner was relieved of his duties and was handed over a copy of impugned letter dated 23.10.2013 issued by respondent No.2 (Annexure P-4). Vide impugned order, the order dated 30.03.2011 (Annexure P-3) was reviewed and the petitioner was dismissed from service.

It is asserted that before passing the impugned order dated 23.10.2013 (Annexure P-4), no regular inquiry was conducted against the petitioner, therefore, the impugned order is bad in law as it violates the principle of natural justice.

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

Heard.

The relevant portion of the impugned order dated 23.10.2013 (Annexure P-4) reads as under:-

“On a consideration of this case, the Director General of Police vide his orders dated 07.07.2013 issued vide this office letter No.9959/E-2(2) dated 14.08.2013 ordered review of the orders dated 30.03.2011 passed by the Director General of Police, Armed Battalians and by modifying the same, the Director General of Police, Punjab vide his orders dated 05.10.2013 has reviewed the order dated 30.03.2011 passed by the Director General of Police, Armed Battalians and has revoked the same.”

A perusal of the impugned order (Annexure P-4) shows that the petitioner has been punished and the order 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*'. In the circumstances, there was complete violation of the principles of natural justice and the impugned order (Annexure P-4) is vitiated and bad in law.

Consequently, the present civil writ petition is allowed. The impugned order dated 23.10.2013 (Annexure P-4) is set aside. However, the respondents are free to initiate fresh proceedings against the petitioner in accordance with law.

10.01.2019.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No