

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

229

CWP-1766of 2020

Date of decision :-16.10.2020

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...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. R.S.Malik, Advocatefor the petitioner.

Mr. Sharad Aggarwal, AAG, Haryana for the respondents.

SUVIR SEHGAL, J.(ORAL)

The hearing of this petition has been taken up through video conferencing on account of the situation having arisen due to the outbreak of Coronavirus (Covid-19).

Instant petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of the impugned order dated 15.02.2017, Annexure P-3, passed by respondent No.4 by which the petitioner has been dismissed from service on the basis of FIR No.440 dated 03.08.2016 registered under Sections 376(2)(n), 506 and 34 of the Indian Penal Code, 1860 at Police Station City Fatehabad. Petitioner has further prayed for issuance of a writ in the nature of mandamus directing the respondents to reinstate him in service along with all consequential benefits as he has been acquitted from the aforesaid

criminal case and the appeal filed by the complainant has been dismissed by a Division Bench of this Court.

Facts leading to the filing of the present petition may be noticed. The petitioner was working as a Constable and was promoted as Exemptee Head Constable (EHC) under District Police, Fatehabad, respondent No.4. On 03.08.2016 abovesaid FIR was registered in which the petitioner was implicated. After trial, the learned Special Court, Fatehabad vide order dated 05.02.2018, Annexure P-1, acquitted the petitioner of the charges framed against him under Sections 376 (2) (n), 506 and 34 IPC by giving him benefit of doubt. CRM-A-1486-MA-2018 filed by the complainant-prosecutrix seeking leave to appeal, was declined by this Court vide judgment dated 13.02.2019, Annexure P-2. After conducting a departmental inquiry on the basis of the criminal case, the petitioner was dismissed from service vide impugned order dated 15.02.2017, Annexure P-3. Appeal filed by the petitioner before respondent No.3 was rejected by order dated 31.05.2017. The petitioner filed a revision petition dated 09.02.2018, Annexure P-4, before the Director General of Police, Haryana, respondent No.2, which is pending. He submitted an application dated 08.11.2019, Annexure P-5, to respondent No.2 seeking personal hearing and for early decision of the revision petition.

Upon notice, the respondents have filed a reply contesting the petition, wherein they have *inter alia* submitted that the revision petition filed by the petitioner is pending before respondent No.2 and without waiting for the decision of the same, the petitioner has filed the instant writ petition, therefore, it is premature and is liable to be dismissed.

I have heard the counsel for the respective parties.

Admittedly, a revision petition, Annexure P-4, challenging the order dated 15.02.2017 and 31.05.2017 is pending before respondent No.2. In such a situation, this Court does not deem it proper to adjudicate upon the impugned action which is subject matter of the revision petition.

Without going into the merits of the writ petition or the revision filed by the petitioner, this petition is disposed of with a direction to the revisional authority-respondent No.2 to hear and decide the revision petition dated 09.02.2018, Annexure P-4, within a period of 04 months from the date of receipt of certified copy of this order.

It will be open to the revisional authority to conduct the hearing of the petition through video conferencing.

Disposed of.

16.10.2020
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No