

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4845 of 2019

Date of Decision: 05.02.2020

HC Mahender Singh

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. RK Malik, Sr.Advocate with
Mr. Sunil Hooda, Advocate for the petitioner

Ms. Safia Gupta, AAG Haryana

GIRISH AGNIHOTRI, J. (Oral)

(1) The present petition has been filed by Head Constable Mahender Singh, *inter alia*, praying for a writ in the nature of *certiorari* to quash the order dated 28.07.2014 (P3), primarily the order dated 06.12.2018 (P6) whereby the punishment of stoppage of 10 annual increments was reduced to 8 annual increments.

(2) Learned senior counsel has raised two-fold submissions. Firstly, it is contended that in fact for the same charges which were subject matter of criminal trial in pursuance to FIR No.429 dated 09.10.2013, the charge-sheet in question had been issued. He further submits that the petitioner was acquitted in the aforementioned criminal case vide judgment dated 12.06.2017 (P1) and therefore in view of Rule 16.3 of the Punjab Police Rules coupled with the judgement dated 17.05.2017 rendered in **CWP No.17934 of 2015 (Ex-Head Constable Dalbir Singh vs. State of Haryana & Ors.)**, the authorities ought to have considered the effect of judgment of acquittal and also the implications of Rule 16.3 of the Rules *ibid*. Learned senior counsel further raised legal submission by making reference to show

judgments of Hon'ble Supreme Court as well as this Court, the punishing authority, as noticed in the show cause notice dated 03.07.2014, had examined the enquiry report and came to the conclusion that provisionally the punishment of dismissal should be imposed. The specific case of the petitioner is that before issuance of the show cause notice copy of the enquiry report was not supplied to him. The argument being as per law, copy of the enquiry report should have been first given to the employee and thereafter both the versions of the Department as well as the employee should have been placed before the punishing authority to take an appropriate decision.

(3) Learned State counsel by making reference to the written statement filed by respondents No.1 to 4 submits that the competent authority has already taken a lenient view and has imposed the punishment of stoppage of 8 annual increments in place of dismissal/stoppage of 10 annual increments.

(4) This Court is in agreement with the submissions made by the counsel for the petitioner. This Court also finds that the case is covered by **Ex-Head Constable Dalbir Singh's** case (supra).

(5) Accordingly, the writ petition is disposed of in same terms as in **Ex-Head Constable Dalbir Singh's** case (supra) with a direction that the decision afresh be taken by the competent authority as directed in the judgment within 3 months from the date of receipt of certified copy of this order.

(6) Ordered accordingly.

05.02.2020

Vvishal

(Girish Agnihotri)
Judge