

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.14213 of 2017(O&M)
DECIDED ON : 12.03.2020

Sukhwinder Singh

...Petitioner

versus

State of Punjab and another.

...Respondents

CORAM : HON'BLE MR. JUSTICE GIRISH AGNIHOTRI

Present : Mr. A.K. Walia, Advocate
for the petitioner.

Mr. Rajesh Bhardwaj, Sr. DAG, Punjab.

GIRISH AGNIHOTRI, J. (ORAL)

CM No. 3949 of 2020 in CWP No. 14213 of 2017 and
CM No. 3835 of 2020 in CWP No. 14987 of 2017

Present applications have been filed by the respondents, *inter*
lia, with the prayer to recall the order dated 24.07.2019.

In the order dated 24.07.2019, it has been recorded that none
has caused representation on behalf of respondent No.5 in CWP No.14213
of 2017 and respondent No. 6 in CWP No.14987 of 2017.

Learned counsel for respondents submits that they are
appearing for all the respondents and therefore, the order sheet be
accordingly corrected.

Applications are accordingly disposed of.

Main case

This order shall dispose of two writ petitions i.e. CWP Nos.
14213 and 14987 of 2017. For ready reference, facts have been taken from
CWP No. 14213 of 2017.

Petitioner-Sukhwinder Singh, has filed the present writ petition, *inter alia*, with a prayer to quash the impugned order dated 02.12.2015(Annexure P-4). Vide order dated 02.12.2015 (Annexure P-4), the petitioner has been dismissed from service by invoking provisions of Article 311(2)(b) of the Constitution of India. The petitioner has also prayed for quashing of subsequent orders dated 26.02.2016 (Annexure P-6/T) and also dated 21.09.2016 (Annexure P-7), whereby the appeal and revision was also dismissed.

Notice of motion in this case was issued on 05.07.2017. In the order dated 05.07.2017, it was observed as under:-

*“Learned counsel for the petitioner contends that provisions of Article 311(2)(b) of Constitution of India have been attracted as without recording any finding as to how it was not practically possible to conduct enquiry, services of the petitioner have been terminated. Learned counsel also submits that controversy in the present case is squarely covered by the decision rendered in **CWP No.19478 of 2014** titled as **Kabal Singh vs. State of Punjab and others**, decided on 22.3.2016.*

Notice of motion for 12.9.2017.”

Reply dated 26.12.2017 on behalf of respondents No.1 to 4 has been filed by Sh. Sarabjit Singh, PPS, whereby it had been stated that criminal cases were pending against the petitioner.

Learned counsel for the petitioner submits that in the criminal cases, the petitioner had been acquitted. He therefore submits that on two grounds, the Competent Authority is under a legal duty to reconsider the matter. He firstly, submits that the petitioner has been acquitted and therefore, this is itself the ground of re-consideration. Secondly, he submits that Competent Authority also needs to examine the Article 311(2)(b) of the

Constitution of India that could not be invoked in the present circumstances.

The writ petition is accordingly, disposed of with a direction to respondent No.2-Inspector General of Police, Punjab, Jalandhar, to reconsider and pass a fresh order in view of the fact that petitioner has been acquitted and also examine as to whether Article 311(2)(b) of the Constitution of India could be invoked in the present case.

It is also directed that the Competent Authority shall pass a fresh order *dehors* the earlier order of punishment dated 02.12.2015 and orders in the appeal and revision dated 26.02.2015 and 21.09.2016, respectively.

It is further directed that in case on re-consideration, the petitioner is decided to be taken back in job, the consequential orders and consequential benefits be released within two months from the date of passing of order. The Competent Authority is directed to take a decision within three months from the date of receipt of certified copy of this order.

(GIRISH AGNIHOTRI)
JUDGE

March 12, 2020

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Whether speaking/reasoned : YES/NO

Whether reportable : YES/NO