

202 R.A No. CW-350-2018 in CWP-1955-2016

EHC DHAN SINGH AND OTHERS VS. STATE OF HARYANA AND OTHERS

Present : Mr. Manish Soni, Advocate,
for the applicant-petitioner.

Mr. Ankur Mittal, Addl.A.G. Haryana with
Mr. Saurabh Mago, AAG, Haryana

The present review application has been filed seeking review of judgment dated 20.09.2018 passed by this Court in CWP No. 1955-2016.

Before this Court in the above writ petition, the petitioners were challenging order dated 05.11.2014 passed by respondent No. 2 whereby regular departmental enquiry has been ordered against the petitioners. The petitioners were also challenging statement of allegations dated 14.11.2014 (P-3) issued by respondent No. 3. The writ petition was dismissed, keeping in view ***CWP No. 24413-2012 titled as Pale Ram vs. State of Haryana and others***, decided on 14.12.2012 wherein it was held that when judicial proceedings are initiated on criminal side, then Superintendent of Police can proceed against the accused departmentally as well, without taking sanction of the District Magistrate, as per Rule 16.38 of Punjab Police Rules 1934 as applicable to State of Haryana.

Learned counsel for the applicant/petitioners has referred to judgment of Hon'ble the Supreme Court of India in a case of ***State of Haryana and others vs. Ranbir Singh***, passed in Civil Appeal No. 5822-2008, decided on 23.09.2008 (A-2) wherein it has been held that departmental enquiry in the absence of concurrence of District Magistrate, is null and void. Reference has further been made to judgment passed by this Court in a case of ***Ex Head Constable Dalbir Singh vs. State of Haryana and others***, passed in CWP No. 17934-2015, decided on

17.05.2017 and connected matters (A-5). It has been observed as under:-

“In my opinion, the more reasonable interpretation would be that whatever be the stage of the disciplinary proceedings, once a police officer is acquitted, the competent authority would have to consider the impact of Rule 16.3 at that point of time. If at that stage, whether it is the original inquiry or the appeal or the revision, the competent authority comes to the conclusion that none of the exceptions mentioned in Rule 16.3 (1) are available it would have to drop the disciplinary proceedings.

On the other hand, learned State counsel has referred to the reply filed on 04.07.2020 on behalf of respondent Nos. 1 to 4 to the review application. Learned State counsel has argued that no case for review is made out, as the petitioners were assigned the duty of taking the accused Vijay Bhardwaj to CBI Court Panchkula from Bhondsi Jail, Gurgaon for hearing in a case F.I.R No. 117 dated 23.08.2008. However, the petitioners took the accused to his house. On receiving secret information, the accused Vijay Bhardwaj was found to be taking rest in the front drawing room of his house whereas the petitioners were taking rest in the back side room of the house. Learned State counsel submits that this was not part of their official duty to take the accused to his house. Hence as per Rule 16.38 of Punjab Police Rules 1934 as applicable to State of Haryana, the Superintendent of Police was not bound to give the information to District Magistrate. As per Rule 16.38 (1), the offence of the petitioners was not in connection with their official relations with the public. The judgment (A-2) cited by learned counsel for the applicant/petitioners is not applicable to the facts of the present case, as that was a case of an employee who was found in a drunkard condition while performing his official duty.

However, learned State counsel submits that the authorities at the time of taking final decision in the case of the petitioners on the disciplinary proceedings, will take into consideration Rule 16.3 of Punjab Police Rules 1934 as applicable to State of Haryana.

In view of the statement given by learned State counsel in the Court today, the present review application is disposed of.

(RITU BAHRI)
JUDGE

08.09.2021
G Arora