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

**CWP-11824-2022
Date of decision: 19.07.2022**

PARAMJIT SINGH

...Petitioner

VERSUS

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. R. K. Arora, Advocate
for the petitioner.

Mr. Pawan Sharda, Sr. DAG, Punjab.

JAISHREE THAKUR, J. (Oral)

The instant writ petition has been filed seeking to challenge the order dated 31.12.2020 (Annexure P-5) whereby, the petitioner herein has been placed under suspension as well as the order dated 16.05.2022 (Annexure P-17) whereby, respondent No.1 has decided not to revoke the suspension of the petitioner despite a period of more than one year and four months having elapsed from the date of suspension, without issuing any charge-sheet to the petitioner herein.

Learned counsel for the petitioner herein would contend that an FIR No.129, dated 07.08.2018, was registered pertaining to the incident arising out of a sacrilege incident of the Holy Book in Kotkapura, District Faridkot. During enquiry, there was a statement recorded that the petitioner herein had

issued directions for use of teargas. The petitioner stood suspended on 31.12.2020 and as on date, no charge-sheet has been presented against him either in the FIR or in the departmental proceedings. It is further contended that the petitioner was allowed anticipatory bail by the Court below by taking note of the fact that the only allegation against him was of use of teargas. He would further contend that due process and procedure was followed before the use of teargas as would be evident from the fact that the SDM gave permission to do so considering the activities of the mob that had gathered. He would argue that the petitioner cannot be kept under suspension indefinitely and while rejecting his representation for taking him back in service, this fact has not been taken into account.

Learned counsel for the petitioner has also submitted that paying the petitioner suspension allowance @ 75% of his salary and not taking work from him would amount to a burden on the Public Exchequer. In this regard, he places reliance upon an order passed by a coordinate Bench in CWP No.2847 of 2021 on 05.03.2021 (Annexure P-13). It is also submitted that on the basis of parity too, he would be entitled to be taken back in service as similarly situated person, namely, Baljit Singh was taken back in service and has ultimately retired while in service. One Charanjit Singh too has been taken back in service. It is submitted that while rejecting his representation, there is an opinion formed that the petitioner was likely to affect proceedings in the FIR and the departmental enquiry, which is a wrong premise since he has not been nominated in the FIR and there is no departmental enquiry against him as of today. Learned counsel for the petitioner relies upon *Ajay Kumar Choudhary versus Union of India through its Secretary and Another,*

2015(3) SCT 107 to contend that suspension cannot be for an indeterminate period and that a suspension order cannot exceed three months if within this period the memorandum of charges is not served upon the delinquent officer/employee.

Pursuant to notice of motion having been issued on 27.05.2022, learned State counsel sought time to file reply. The matter was then adjourned to 04.07.2022, on which date reply was filed, wherein it was mentioned that as on that date, no charge-sheet had been served upon the petitioner herein.

This Court while taking note of the fact that the petitioner herein had been put under suspension as far back as on 31.12.2020, has also taken note of the judgment as rendered by the Supreme Court in *Ajay Kumar Choudhary's case (supra)* wherein it is stated that a person could not be kept under suspension indefinitely, beyond a period of three months if there is no charge-sheet served upon the delinquent employee, as in the instant case. On 11.07.2022, this Court sought a response from the respondents-State as to whether the State would consider posting the petitioner herein to another post, where he would not be in a position to influence the investigation. Today, learned State counsel, on instructions from Mr. Harmeet Singh, Senior Assistant and Ms. Ravneet Kaur, Superintendent (Home-1 Branch), would submit that the matter is still under active consideration, however, the petitioner herein can be posted as Superintendent of Police, Punjab Police Control Room, Chandigarh, a post which is vacant at the present moment.

The law is well settled that a person cannot be kept under suspension beyond a period of three months in case no charge-sheet is served upon such employee. This Court has no hesitation in setting aside the order of

suspension dated 31.12.2020 (Annexure P-5) keeping in view that no charge-sheet has been admittedly served upon the petitioner herein as on date. To address the apprehension of the respondents-State that the petitioner herein may influence the investigation, it is directed that the petitioner herein be posted as Superintendent of Police, Punjab Police Control Room, Chandigarh, for the time being.

Let the necessary orders ensue preferably within a period of one week from the date of receipt of the certified copy of this order, in accordance with law.

It is made clear that the petitioner herein would not exercise any influence over the investigation that is undergoing under the said FIR registered against him.

The instant writ petition is disposed of accordingly.

19.07.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*