

121.

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

CWP-13333-2022

Date of Decision: 04.07.2022

AMITA DEVI

.... Petitioner

Versus

STATE OF HARYANA AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rajat Mor, Advocate,
for the petitioner.

JAISHREE THAKUR.J (Oral)

This is a petition that has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari quashing the order dated 18.08.2006 (Annexure P-5) whereby punishment awarded to the petitioner has been enhanced, and further to quash the order dated 11.08.2008 (Annexure P-7) by which her name has been removed from List C-1.

Briefly stated, the facts of the case are that when the petitioner was posted as Constable in Police Station City Bhiwani, on 15.10.1998, an accused, who was on police remand, escaped from the police station. The petitioner was charge-sheeted and an inquiry was conducted against her. In that regard, an FIR No.475, dated 15.10.1998, under Sections 223, 224 IPC was also registered at Police Station City Bhiwani, against the petitioner.

Vide order dated 04.12.2003, Chief Judicial Magistrate, Bhiwani held her

guilty of the charge and awarded rigorous imprisonment for 8 months and to pay a fine of Rs.200/-. Against the said conviction, the petitioner preferred appeal wherein vide judgment dated 03.12.2004, the petitioner was released on probation. It was specifically made clear that such release on probation shall not amount to disqualification in terms of Section 12 of Probation of Offenders Act, 1958. On 18.08.2005, respondent No.3 imposed a punishment of stoppage of two annual increments with permanent effect upon the petitioner. Against the said order, the petitioner preferred appeal, which stood dismissed. However, respondent No.2 served a show cause notice while exercising powers under Rule 16.28 of Punjab Police Rules, 1934 for enhancement of the punishment and ultimately vide order dated 18.08.2006, the punishment was enhanced to stoppage of three annual increments with permanent effect. Thereafter, the petitioner challenged the said order by way of a mercy petition before the Government of Haryana which appears to have not been decided as yet.

Adverse remarks came to be recorded in the ACR of the petitioner for the period w.e.f. 01.04.2005 to 09.11.2005 and on that basis, her name has been removed from list C-1 vide order dated 11.08.2008 (Annexure P-7).

Learned counsel appearing on behalf of the petitioner would submit that one Neelam Devi, who was also an accused with the present petitioner in the same FIR, was awarded similar punishment of stoppage of three annual increments with permanent effect. She challenged that order before this Court by way of CWP No.13255 of 2009, which writ petition was

admitted on 19.02.2010. However, the punishment has been reduced to stoppage of three annual increments 'without permanent effect' by the Government in revision petition vide order dated 14.07.2010 (Annexure P-8). Counsel would submit that the petitioner also approached this Court by way of CWP No.9258 of 2011, however, that writ petition was got dismissed as withdrawn vide order dated 24.05.2011 with liberty to pursue her remedy with the respondents. He would further submit that it was thereafter that the petitioner approached the Government in mercy appeal Annexure P-10, on 11.04.2016 and a reminder dated 08.04.2021 (Annexure P-11). He would submit that the petitioner would be satisfied in case her mercy appeal is decided in a time bound manner.

Notice of motion.

At this stage, Ms. Kirti Singh, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondents and submits that the respondents will look into the matter and will take a decision on the mercy appeal of the petitioner.

Let sufficient number of copies of the complete paper book be supplied to her during the course of day.

Without commenting on merits of the case, the present petition is disposed of with a direction to respondent No.1 to decide the mercy appeal Annexure P-10 of the petitioner within a period of three months from the date of receipt of certified copy of this order, in accordance with law taking into consideration order dated 14.07.2010 (Annexure P-8) passed qua Neelam Devi and convey the decision to the petitioner. In case of failure to

do so, the officer responsible for the lapse would be liable to costs of Rs.20,000/- from his personal pocket, to be deposited with the Punjab and Haryana High Court Advocates Welfare Fund.

04.07.2022

sanjeev

**(JAISHREE THAKUR)
JUDGE**

Whether Reportable:	Yes/No
Whether Reportable:	Yes/No