

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Reserved on 31.05.2022
CWP No.14920 of 2020(O&M)
Date of Decision-04.07.2022

Param Raj Singh Umaranangal ... Petitioner

Versus

State of Punjab and others ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Gurminder Singh, Sr. Advocate with
Mr. Sangram Saron, Advocate
Mr. Jatinder Gill, Advocate
Ms. Surabhi Kaushik, Advocate
for the petitioner.

Dr. Anmol Rattan Sidhu, Advocate General,
Punjab with Mr. Pratham Sethi, Advocate

Mr. Satya Pal Jain, Additional Solicitor General of
India with Ms. Saigeeta Srivastava, Advocate for
respondents No.3 and 4/Union of India.

RAJ MOHAN SINGH, J.

[1]. Petitioner seeks issuance of necessary directions in the nature of mandamus, directing respondent/State to allow the petitioner to join the services forthwith as Inspector General of Police as the order of suspension dated 26.02.2019 has been rendered invalid and inoperative after expiry of its validity beyond 60 days under the Rules.

[2]. The present order is being passed in continuation of observations made in the order of even date passed in

CWP No.22703 of 2020. Petitioner was arrested on 18.02.2019 when FIR 129 dated 07.08.2018 under Sections 307, 326, 324, 323, 341, 201, 218, 120-B, 34 IPC and Section 27 of the Arms Act at Police Station City Kotkapura was registered on the basis of statement of one Ajit Singh against unknown persons. In order to inquire into the aforesaid FIR, State constituted a Special Investigation Team and the petitioner was arrested by the Special Investigation Team from the Police Headquarter, Chandigarh and the petitioner remained in custody for a period of more than 48 hours.

[3]. By invoking provisions of Rule 3(2) of All India Service (Discipline and Appeal) Rules, 1969, the petitioner was placed under suspension vide order dated 26.02.2019. Petitioner was granted bail by the Court of Sessions at Faridkot vide order dated 11.03.2019.

[4]. As per recommendations of the Commission of Inquiry and Action Taken Report accepted by the Punjab Assembly in August, 2018, no criminality was alleged against the petitioner and other 13 officers and they were issued show cause notice for disciplinary action only. A show cause notice was issued to the petitioner on 13.08.2020 and charge-sheet was served upon him on 24.09.2020. Petitioner was again suspended w.e.f. 26.09.2020 vide order dated 20.11.2020

under Rule 3(2) and (3) of All India Service (Disciplinary and Appeal) Rules 1969.

[5]. The grievance of the petitioner is that on the representations dated 12.03.2019 and 25.06.2019 to join duty after reinstatement in service, no action has been taken. In terms of Rules 1969, order of suspension passed by the State Government is valid only for 60 days and the same can be extended only upto 180 days. Further extension beyond 180 days can only be done after recommendation of the review committee. It is a statutory duty of the State Government to send intimation to the Central Government within a period of 48 hours of passing of order of suspension with a detailed report. No order of extension of suspension has been passed and the validity of order of suspension stands expired. The State has failed in its statutory duty to intimate Central Government about the suspension of the petitioner and no detailed report has been sent till date and the matter has not been placed before the review committee and therefore, no extension of suspension has been passed by the competent authority till date.

[6]. In view of aforesaid, order of suspension stands lapsed and the petitioner is entitled to join back his duties on the post of Inspector General of Police.

[7]. Learned Senior Counsel for the petitioner submitted that since no criminality has been found against the petitioner in view of Action Taken Report tabled in the State Assembly and accepted by the State Assembly, therefore, his arrest in a criminal case is not an impediment for his reinstatement in service. The alleged misconduct arising out of FIR No.129 dated 07.08.2018 under Sections 307, 326, 324, 323, 341, 201, 218, 120-B, 34 IPC and Section 27 of the Arms Act at Police Station City Kotkapura is not likely embarrass the petitioner in discharge of his public/official duty. The alleged misconduct does not involve any moral turpitude and the alleged misconduct also does not show any defect in character. Rule 3(2) of All India Service (Disciplinary and Appeal) Rules 1969 has been invoked to put the petitioner under suspension. Against the order of suspension, the petitioner has filed appeal under Rule 16 of 1969 Rules on 04.02.2020 before the Central Government through Director General of Police. Appeal filed by the petitioner was not forwarded by the Director General of Police to the competent authority/respondent No.3 in accordance with the provisions of Rules.

[8]. Petitioner was constraint to straightaway filed an appeal before respondent No.3 on 25.02.2020. On receipt of the appeal, respondent No.3 vide communication dated

26.05.2020, has written to the respondent-State of Punjab and called for the comments of the State Government, but the same has not been forwarded till date.

[9]. Notice of motion was issued on the contention that validity period of order of suspension stands lapsed with the passage of time and order of suspension has not been approved by the Central Government and the statutory review committee.

[10]. In response to the notice, a reply has been filed on behalf of respondents No.1 and 2. As per preliminary objections, an appeal under Rule 16 of All India Service (Disciplinary and Appeal) Rules 1969 has been filed by the petitioner before the competent authority/respondent No.3 and the same is pending, therefore, present writ petition is not maintainable. Respondents No.1 and 2 have also opposed the present petition on the ground that after decision of the appeal, further remedy would also be available to the petitioner in the form of revision under Rule 24 of the aforesaid Rules and therefore, jurisdiction of the High Court under Article 226 of the Constitution of India cannot be invoked. Respondents have further highlighted that the petitioner is a member of Indian police service, which is an All India Service and the petitioner in terms of Section 24 of the Administrative Tribunal Act, can resort to appropriate

proceedings before the Central Administrative Tribunal. On this score also, the present writ petition is not maintainable. Similar stand has been taken by respondents No.3 and 4 as well.

[11]. In view of aforesaid facts and circumstances of the case, it would be just and appropriate to relegate the petitioner to pursue his pending appeal in accordance with law.

[12]. At this stage, without meaning anything on merits of the case, I deem it appropriate to dispose of the present writ petition with a liberty to the petitioner to pursue his legal remedy in the form of statutory appeal before respondent No.3 in accordance with law.

[13]. Disposed of accordingly.

[14]. Nothing expressed hereinabove, would be construed to be an opinion of merits of the case.

(RAJ MOHAN SINGH)
JUDGE

04.07.2022

Prince

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No