

208 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CWP-10640-2017

RAJENDER SINGH

...Petitioner

VERSUS

STATE OF HARYANA AND ORS.

...Respondents

2. CWP-10641-2017

SHISH PAL

...Petitioner

VERSUS

STATE OF HARYANA AND ORS.

...Respondents

Date of decision: 18.08.2022

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. R. K. Malik, Senior Advocate with
Mr. Sandeep Dhull, Advocate
for the petitioner in CWP-10640-2017.

Mr. R. N. Lohan, Advocate
for the petitioner in CWP-10641-2017.

Mr. Tapan Kumar, DAG, Haryana.

JAISHREE THAKUR, J. (Oral)

By this common order, the above noted two writ petitions are
being disposed of as the facts of both the cases are same.

These two writ petitions have been filed seeking to challenge the
order dated 05.07.2012 (Annexure P-1) as passed by respondent No.4-the
Superintendent of Police, Jind, whereby the petitioners herein have been given

the punishment of warning to be careful in future. The ACRs of the petitioners stand downgraded on the basis of the order passed.

The petitioners was recruited in Haryana Police as Constable and subsequently, promoted to the post of Head Constable in the year 2005. A departmental inquiry was initiated against the petitioners and the Inquiry Officer vide order dated 30.06.2012 exonerated the petitioners of charges levelled against them. However, the punishing authority i.e. the Superintendent of Police, Jind found that the departmental inquiry had been conducted as per the provisions of the Punjab Police Rules, 1934, but by the impugned order imposed punishment of warning to be careful in future.

Learned Senior Advocate for the petitioners would submit that by virtue of the impugned order, the ACRs of the petitioners have also been downgraded while contending that impugned order is wholly unsustainable as the order itself is self contradictory.

Learned State counsel would submit that there is no infirmity in the order as passed as the Superintendent of Police, Jind on appreciation of the evidence before him i.e. the source report and the inquiry report, came to the conclusion that the petitioners herein deserved to be warned and, that it was on the basis of order Annexure P-1 that the ACRs of the petitioners were downgraded.

I have heard learned counsel for the parties and have perused the pleadings of the case.

A perusal of order dated 05.07.2012 itself would show total non-application of mind of the Superintendent of Police, Jind, who in one breath has taken note of the fact that the charges against the defaulters could not be

proved as there was no evidence available on the record, but in the second breath, has decided to impose punishment of warning on the possibility of substance on the allegations mentioned in the source report being correct. It would be expected of the punishing authority to be consistent while dealing with any such matter pertaining to the career of any employee, in this case the police officials. Moreover, it is borne out from the record that the Superintendent of Police is a person, who is not the Inquiry Officer and, therefore, ought to have issued a show cause notice to the petitioners prior to passing any adverse order be that of a warning or a censure, as has not been done in the present case. A copy of the inquiry report ought to have been furnished to the petitioners herein before passing any adverse order, which would be in consonance with the law as settled in **Punjab National Bank versus Kunj Behari Misra, 1998 (7) SCC 84**, subsequently followed in **Lav Nigam versus Chairman and MD, ITI Ltd. and Another, 2006 (9) SCC 440**.

This Court would conclude that the impugned order dated 05.07.2012 is not sustainable and, therefore, deserves to be set aside along with all consequential orders that ensued from it.

Consequently, the instant writ petitions are allowed. The impugned order dated 05.07.2012 Annexure P-1 and the subsequent orders that have followed in respect of both the petitioners are set aside. It is however left open to the respondents-State to proceed against the petitioners afresh, in accordance with law.

18.08.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No