

219.

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

CWP-17090-2015

Date of Decision: 25.07.2022

VIRENDER SINGH

.... Petitioner

Versus

STATE OF HARYANA & ORS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. R.S. Mamli, Advocate,
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

JAISHREE THAKUR.J

The petitioner has approached this Court under Article 226/227 of the Constitution of India seeking a writ in the nature of certiorari/mandamus or any other appropriate writ, order or direction for quashing the impugned orders dated 21.05.2015 and 27.06.2015 Annexures P-13 & P-14 respectively with a prayer for correction in his ACR.

In brief, the facts, as alleged, are that the petitioner joined as a Constable in Haryana Police and continued to work satisfactorily. An FIR No.279, dated 16.11.2020, under Sections 384, 420, 120-B IPC, Police Station Madhuban came to be registered against him. Though the petitioner was not found involved in the said crime, yet a show cause notice as well as a charge-sheet dated 15.07.2011 were issued to him. An enquiry was conducted by the Deputy Superintendent of Police, who found that the petitioner was absent for 2 months, 28 days and 10 minutes. The punishing

authority issued a show cause notice to the petitioner based upon the enquiry report, to which, a reply was filed. The Superintendent of Police demoted him as Constable from the post of Exemptee Head Constable (EHC). Thereafter, an appeal was filed against the order of reduction in rank, which appeal was dismissed by the Inspector General of Police. However, in revision, the Director General of Police, Haryana converted the punishment to that of stoppage of one increment without cumulative effect but his ACR has not been corrected.

Learned counsel appearing on behalf of the petitioner would contend that the orders passed by the authorities are not sustainable because he never remained absent intentionally and in fact he had fallen ill and was taking treatment. His involvement in the FIR was because of a personal grudge on the statement given by one of the co-accused, but since there was no sufficient evidence against the petitioner, he was granted anticipatory bail. The petitioner had fallen ill and was given 2 days leave and when he gave his application for extension of leave, the same was not allowed. It is submitted that in revision, reversion of the petitioner has been set aside converting the punishment to stoppage of one increment without cumulative effect, but his ACR has not been corrected. It is further submitted that the ACR of similar situated persons has been corrected by the Inspector General of Police, Karnal Range, Karnal, however, the same benefit has not been given to him. It is further submitted that the petitioner had earlier approached this Court by filing a CWP No.14441 of 2014, which was dismissed. However, in LPA No.215 of 2015 filed by the petitioner, liberty was granted to represent his case to the respondents, which representation stands dismissed vide the

impugned order. The petitioner herein seeks parity with Dilbagh Singh, who was also nominated as an accused under the said FIR along with the petitioner.

Per contra, learned counsel appearing on behalf of the State would oppose the petition by contending that the representation of the petitioner has been decided in accordance with law. It was further pointed out that the order of reversion from EHC to Constable has been set aside, however, punishment of stoppage of one increment would still stand.

I have heard learned counsel for the petitioner as well as the counsel appearing on behalf of the respondent-State and have also perused the pleadings of the case.

The petitioner herein faced a regular departmental enquiry which culminated into the findings having been returned against him by the Enquiry Officer. The punishing authority, while agreeing with the findings, imposed the penalty of reduction from the rank of EHC to that of Constable upon the petitioner. The statutory appeal too was dismissed, however, in revision, the Director General of Police, Haryana, vide order dated 01.04.2014 Annexure P-8 set aside the order of reduction from EHC to Constable and imposed the punishment of stoppage of one future annual increment with temporary effect. CWP No.14441 of 2014 filed by the petitioner was dismissed by the Single Bench. However, the Division Bench in LPA allowed the petitioner to move his representation against the adverse remarks, which representation came to be rejected by impugned order dated 21.05.2015 Annexure P-13. His representation has been rejected on the ground that no second representation lies against the adverse remarks.

However, apparently the impugned order does not take into account the arguments that have been raised by the petitioner that the similarly situated person, namely, Dilbagh Singh, who was also the co-accused under the same FIR, had approached for having his adverse remarks set aside and the same stood expunged prior in time by the same authority vide order dated 20.01.2014 Annexure P-10. Dilbagh Singh too had been charge-sheeted for remaining absent from duty and had approached this Court seeking redressal of his grievance by way of filing CWP No.26199 of 2013 and eventually a direction was given to decide the representation of the petitioner therein. The Inspector General of Police, Karnal Range, thereafter considered the matter afresh and accepted the representation and set aside the adverse entries vide order Annexure P-10.

In the light of the facts and circumstances of the case, the petitioner herein would be entitled to have his case considered afresh in the light of the decision already taken in the matter of Dilbagh Singh on the ground of parity. The impugned order Annexure P-13 is thus set aside. The matter is remanded back to the Inspector General of Police, Karnal Range, Karnal to be re-looked and in case the matter of the petitioner is covered by the issue involved in Annexure P-10, necessary relief be allowed to him.

The writ petition stands disposed of accordingly.

(JAISHREE THAKUR)
JUDGE

25.07.2022
sanjeev

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No