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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-18182-2020
Date of decision: 22.04.2022

BALWINDER SINGH

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. H. S. Batth, Advocate
for the petitioner.

Mr. Pawan Sharda, Sr. DAG, Punjab.

JAISHREE THAKUR, J. (Oral)

The petitioner herein has filed the instant writ petition under Articles 226/227 of the Constitution of India to issue a writ in the nature of mandamus for directing the respondents to implement the order dated 21.01.2020 passed by the Inspector General of Police vide Annexure P-19 and the order dated 19.04.2020 (Annexure P-20) passed by the SSP, Kapurthala to promote the petitioner to the post of Assistant Sub-Inspector.

In brief, the facts of the case are that the petitioner herein was enrolled as Constable with the Punjab Police. During the course of his employment, an FIR No.223 dated 26.07.2007, was registered against the petitioner and two other accused under Sections 420 and 120-B of the IPC at Police Station City Phagwara. However, the complainant was not able to substantiate the allegations as set out in the FIR and the trial Court acquitted the petitioner and the other accused. Thereafter, the petitioner faced

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departmental inquiry and the charges were proved. The Senior Superintendent of Police, Kapurthala agreed with the conclusion of the inquiry officer and inflicted punishment of forfeiting five years of his service. On an appeal filed by the petitioner, respondent No.3-Inspector General of Police, Jalandhar Range, Jalandhar dismissed the appeal being time barred against which another appeal was filed before respondent No-.2- Director General of Police, Punjab, Punjab Police Headquarter, Sector-9, Chandigarh, which too was rejected which resulted in petitioner filing CWP-29961-2019 before this Court. The matter was heard and was disposed of by giving a direction to respondent No.3 to consider the case of the petitioner on merits by condoning the delay. On remand, the matter was heard again and the Inspector General of Police, Jalandhar Range, Jalandhar set aside the punishment awarded to the petitioner herein by taking a lenient view. Thereafter, the salary of the petitioner was fixed. It is claimed that as the petitioner stood exonerated in the FIR and the Inspector General of Police, Jalandhar Range, Jalandhar had taken a lenient view and set aside the order of punishment, the petitioner herein would be entitled to promotion as well as the salary against the said post.

On notice of motion being issued, a reply has been filed by the State, wherein, it is stated that the petitioner now stands promoted with effect from 02.12.2020. It is also stated that all the arrears of pay of the petitioner amounting to Rs.7,93,049/- towards his five years service which was forfeited has already been paid to the petitioner.

At this stage, learned counsel for the petitioner herein would contend that no doubt the petitioner has been promoted with effect from 02.12.2020, but in fact he should have been promoted from the time he

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stood exonerated that is 21.01.2020, which ought to have been 10 months prior thereto.

Learned State counsel would submit that in case the petitioner herein moves a representation in this regard, the same would be considered in accordance with law and as per the entitlement of the petitioner, within a period of three months thereafter.

Consequently, as the relief in the writ petition stands allowed, the present petition shall stand disposed of. However, in case the petitioner herein presents a representation seeking his seniority, the case shall be considered within two months, in accordance with law.

(JAISHREE THAKUR)
JUDGE

22.04.2022
Chetan Thakur

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*

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