

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-5717-2016
Reserved on: 02.12.2022
Date of decision: 16.12.2022

FATEH SINGH

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ravi Malhotra, Advocate
for the petitioner.

Mr. Mohit Kapoor, Addl. A. G., Punjab.

Mr. Nimanyu Gautam, Advocate
for respondent No.9.

JAISHREE THAKUR, J.

1. The instant writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari for quashing order dated 13.02.2016 (Annexure P-4), whereby the petitioner has been suspended and departmental inquiry was ordered to be initiated against him and order dated 22.02.2016 (Annexure P-5), whereby charge-sheet has been issued to the petitioner by the Inquiry Officer-respondent No.6.

2. In brief, the facts as stated are that the petitioner herein was appointed as Constable in Punjab Police in the year 2011. On the night of 05.02.2016, the petitioner was deputed on Naka at "Y" Point in Jandhu Singha under the supervision of Naka Incharge-Head Constable Satnam Singh. At

about 9:30 P.M., a car bearing No.CH-03-K-0188 came on a very high speed, which was driven by Jatinder Kumar-respondent No.9, who was close relative of respondent No.7-Som Nath, Superintendent of Police, Shaheed Bhagat Singh Nagar. On seeing the police party, said Jatinder Kumar tried to run away but was apprehended by the petitioner and after stopping the car, he started abusing the petitioner. He also extended threat to the petitioner that in case he wants to save his service, then he should apologize him by touching his feet otherwise he will get him terminated from service. Jatinder Kumar-respondent No.9 was asked to show his papers and on seeing the papers, challan (Annexure P-2) was issued to him. After getting the copy of challan, Jatinder Kumar got offended and started talking to somebody on mobile and again extended threat to the petitioner that now he would face dire consequences. After some time, a call was received by the Naka Incharge from respondent No.7-Superintendent of Police, Shaheed Bhagat Singh Nagar, who directed to conduct the medical examination of the petitioner and on his direction, petitioner was medically examined at Civil Hospital, Adampur but no alcohol was found in the report dated 05.02.2016 (Annexure P-3).

3. Thereafter, the petitioner received an order dated 13.02.2016 (Annexure P-4) from the Senior Superintendent of Police, Jalandhar (Rural), whereby he was ordered to be placed under suspension and departmental inquiry was ordered to be initiated against him. The petitioner was issued a notice/charge-sheet dated 22.02.2016 (Annexure P-5) by respondent No.6-Tejbir Singh, Deputy Superintendent of Police, Sub Division Adampur, Jalandhar (Rural) on the basis of a complaint filed by respondent No.7-Superintendent of Police, Shaheed Bhagat Singh Nagar. On 23.02.2016, the petitioner appeared before the Senior Superintendent of Police, Jalandhar

(Rural) and narrated the entire story of the incident occurred on 05.02.2016 and after hearing the petitioner, the Senior Superintendent of Police, Jalandhar (Rural), re-instated the petitioner temporarily w.e.f. 23.02.2016 vide order Annexure P-6. The petitioner submitted an application dated 05.03.2016 (Annexure P-7) to the Director General of Police, Punjab for setting aside order dated 13.02.2016, but to no avail. Thus, the instant writ petition.

4. Learned counsel for the petitioner would contend that the petitioner herein has been harassed only because he stopped the vehicle of respondent No.9-Jatinder Kumar, who was close relative of respondent No.7-Som Nath, Superintendent of Police, Shaheed Bhagat Singh Nagar. He submits that in the notice/charge-sheet dated 22.02.2016 (Annexure P-5), there was no mention about the complaint made by respondent No.7 and neither any copy of complaint was issued to the petitioner and, therefore, notice/charge sheet dated 22.02.2016 is vague. He further submits that the petitioner has been reinstated in service by the Senior Superintendent of Police, Jalandhar (Rural), Jalandhar vide order dated 23.02.2016 (Annexure P-6) by invoking the power vested in him under Rule 16.17 of the Punjab Police Rules, 1934. He would argue that the preliminary inquiry conducted by the Superintendent of Police, Headquarters, Jalandhar was nothing but to support respondent No.7.

5. Learned State counsel would contend that the petitioner herein had violated the discipline of the police force by talking to the senior officer in filthy language as is evident from the preliminary inquiry report dated 13.02.2016 submitted by the Superintendent of Police, Headquarters, Jalandhar to the Senior Superintendent of Police, Jalandhar (Rural), Jalandhar. He submits that there are specific allegations against the petitioner of showing disrespect to a senior officer and, therefore, he has rightly been proceeded with. He would

rely upon Rule 16.17 of the Punjab Police Rules, 1934, in support of his argument.

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

7. Vide order dated 29.03.2016, the State was directed to file reply in terms of the averments made in the writ petition that the petitioner was suspended and charge-sheeted only on account of having issued a challan to the relative of respondent No.7. Reply has been filed, in which it is submitted that on 06.02.2016, Senior Superintendent of Police, District Ludhiana (Rural) received a letter from respondent No.7-Superintendent of Police, Shaheed Bhagat Singh Nagar stating that he received a telephone call on his mobile number from one of his relatives that he had been rounded up by a Constable i.e. the petitioner herein and although, he had all the documents with him, the petitioner demanded money from him and also uttered filthy abuses. The Superintendent of Police told his relative to put the petitioner on phone line and the Superintendent of Police while introducing himself, told the petitioner that if all the documents are complete, he should let his relative go. The petitioner replied to the Superintendent of Police that he would do whatever he likes and will challan the vehicle. The Superintendent of Police told the petitioner that his behavior is not fair towards a Superintendent of Police rank officer. It is stated in the affidavit that *“the Superintendent of Police felt insulted and requested the Senior Superintendent of Police, District Jalandhar (Rural) to place the petitioner under suspension and to initiate departmental inquiry against him.”*

8. In the writ petition, Superintendent of Police, Shaheed Bhagat Singh Nagar has been arrayed as respondent No.7 along with respondent No.6- Tejbir Singh, Deputy Superintendent of Police, Sub-Division Adampur (Rural),

District Jalandhar and respondent No.8-Head Constable Satnam Singh but despite service, respondents No.6 and 8 have not put in an appearance and they were proceeded *ex-parte* vide order dated 12.09.2019. Despite notice having been issued to respondent No.9-Jatinder Kumar, who was the driver of the vehicle that was challaned and also relative of respondent No.7, he too has not filed any reply. As per the reply of the official respondents, the vehicle was in fact challaned by Head Constable Satnam Singh-respondent No.8, who has been proceeded *ex-parte* and it is not as if the petitioner herein had challaned the vehicle of respondent No.9.

9. It would be relevant to note that the petitioner herein was taken to the Civil Hospital, Adampur, where his medical examination was done and it was found that he had not consumed any alcohol. Other than the bald assertion of the Superintendent of Police-respondent No.7 that the petitioner herein had misbehaved and abused him on the phone, there is nothing in the inquiry report to substantiate the said claim. Even in the details of charges issued, the only allegation against the petitioner is that Head Constable Satnam Singh should have talked on the phone with Superintendent of Police-respondent No.7, instead of the petitioner, as he was Naka Incharge and was present at the naka point at the time of incident. It is an admitted fact that the naka was held at "Y" Point in Jandhu Singha, whereas respondent No.7 was working as Superintendent of Police at Nawanshahr and, therefore, he could not be considered as the officer of the petitioner and also would not be a competent person and it would appear that the proceedings have been initiated only on his demand as he wanted to teach a lesson to the petitioner herein as he felt insulted that the petitioner did not obey his orders and did not let his relative go.

10. Taking an overall view of the circumstances as narrated hereinbefore, the departmental proceedings initiated against the petitioner are not found to be based on any plausible ground to do so as the alleged misconduct on the part of the petitioner does not apparently appear to be such as to invite a regular departmental inquiry against him entailing a major punishment.

11. Consequently, the instant writ petition is allowed and the impugned orders dated 13.02.2016 (Annexure P-4) and dated 22.02.2016 (Annexure P-5) are hereby set aside.

16.12.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No