

CWP-24181-2019

Date of Decision : 18.02.2022

EX-ASI HARDEV SINGH

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM : HON'BLE MR. JUSTICE ANIL KSHETARPALPresent : Mr. Karanvir Singh Khehar, Advocate
for the petitioner.

Mr. Ayush Sarna, AAG, Punjab.

ANIL KSHETARPAL, J (ORAL)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

The petitioner was ordered to be dismissed from service by the Senior Superintendent of Police in exercise of powers under Article 311 (2)(b) of the Constitution of India vide order dated 27.04.2017. An appeal preferred by the petitioner was accepted by the Deputy Inspector General of Police vide order dated 09.02.2018. The Inspector General of Police, in the exercise of its suo-moto powers issued directions to the Deputy Inspector General of Police to review its order dated 09.02.2018. The Inspector General of Police passed the order on 21.02.2018. The Deputy Inspector General of Police, Ferozepur Range, on 21.02.2018, itself, reviewed its order dated 09.02.2018 and ordered the dismissal of the appeal filed by the petitioner which was previously allowed on 09.02.2018.

Learned counsel representing the petitioner contends that the Deputy Inspector General of Police before passing the order on 21.02.2018

did not grant an opportunity of hearing to the petitioner. He submits that in fact, no notice was issued to the petitioner by the Deputy Inspector General of Police before passing the order.

On the other hand, learned State counsel admits the aforesaid facts, however, vehemently submits that afterwards, the Director General of Police, Special Investigating Team and the Bureau of Investigation has granted an opportunity of hearing to the petitioner. While referring to the report dated 19.07.2019, filed by the Inspector General of Police, Crime (litigation), Bureau of Investigation, Punjab submits that the petitioner has managed to secure the order by putting undue influence and pressure on the authorities.

It may be noted here that the petitioner is an accused in FIR No.88, dated 02.05.2017 under Sections 7 and 13 (2) of Prevention of Corruption Act and Sections 34, 365 and 384 of IPC.

Learned counsel representing the State submits that there are two FIRs registered against the petitioner.

As per the applicable service rules, the Deputy Inspector General of Police is the designated appellate authority. In the present case, the Deputy Inspector General of Police after having ordered petitioner's reinstatement on 09.02.2018, has reviewed its order dated 09.02.2018 on 21.02.2018 on the directions of the Inspector General of Police. Before reviewing the order, it was incumbent on the Deputy Inspector General of Police to grant an opportunity of hearing to the petitioner. The hearing, if any, given by the Director General of Police, Special Investigating Team or Bureau of Investigation cannot cure the fundamental defect. The order has been passed against the principle of natural justice, explicitly contained in

Article 311.

Keeping in view the aforesaid facts and without going into the merits of the case, the order passed by the Deputy Inspector General of Police dated 21.02.2018 is set aside. The petitioner is directed to appear before the Deputy Inspector General of Police on 28.02.2022 at 11.00 a.m. in his office. The Director General of Police shall be at liberty to proceed with the matter after granting an opportunity of hearing to the petitioner. The petitioner shall have the liberty to file his written arguments, if so advised.

Keeping in view the aforesaid facts, the question of payment of consequential benefits are left to be decided by the Deputy Inspector General of Police. Further, the Deputy Inspector General of Police is requested to decide the proceedings within a period of four months from the date the petitioner puts in appearance.

The petition is allowed in the aforesaid terms.

(ANIL KSHETARPAL)
JUDGE

18.02.2022

Manpreet/Ashok

Whether speaking/reasoned : Yes

Whether reportable : No