

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

**CWP-11083-2019**

**Date of decision : 15.03.2023**

**Rachan Singh**

**..... Petitioner**

**versus**

**State of Punjab and others**

**..... Respondents**

**CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Gopal Singh Nahel, Advocate  
for the petitioners.

Mr. Inderpreet Singh Kang, AAG, Punjab.

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**PANKAJ JAIN, J. (Oral)**

By way of present writ petition, the petitioner has challenged order dated 17.09.2012 (P-5), whereby the services of the petitioner stands dismissed and the subsequent order dated 26.05.2014 (P-7), whereby the appeal preferred by the petitioner against order of dismissal stands rejected affirming the order of dismissal.

2. Petitioner while working with the respondent-department was booked for offence punishable under Sections 22/23 and Section 29 of the NDPS Act vide case bearing No. SC 72/A of 2008. The petitioner was proceeded against by way of departmental inquiry in which he was indicted having been found guilty leading to order of dismissal dated 17.09.2012 (Annexure P-5). Appeal preferred by the petitioner also stands rejected. Thereafter, the matter in which the petitioner was booked led to order of discharge dated 20.03.2017. Thereafter, the petitioner kept on seeking review of the order P-5, but could not find favour with the authorities and the repeated review/revision petitions filed by the petitioner were being

dismissed without considering the case of the petitioner in the light of the order of discharge.

3. Counsel for the petitioner submits that even though the departmental inquiry indicted the petitioner, yet on having been ordered to be discharged in the criminal proceedings, the case of the petitioner ought to have been considered afresh in terms of provision as contained in Rule 16.3 of the Punjab Police Rules, 1934.

4. Per contra, Mr. Kang submits that once departmental inquiry had held the petitioner guilty, the employer is well within its right to follow the findings of departmental inquiry de hors the finding in the criminal trial.

5. I have heard counsel for the parties and have gone through the records of the case.

6. There is no dispute w.r.t. the fact that the petitioner has been held guilty by the departmental inquiry. However, order of discharge earned by the petitioner in the criminal trial dated 20.03.2017 does have a bearing on the merits of the case. It will be apposite to read Rule 16.3 which specifically deals with as to how employees who have attained judicial acquittal have to be treated:-

**“16.3 Action following on a judicial acquittal**

(1) When a Police Officer has been tried and acquitted by a criminal court he shall not be punished departmentally on the same charge or on a different charge upon the evidence cited in the criminal case, whether actually led or not, unless-

- (a) the criminal charge has failed on technical grounds; or
- (b) in the opinion of the court or of the Superintendent of Police, the prosecution witnesses have been won over; or
- (c) the court has held in its judgment that an offence was actually committed and that suspicion rests upon the police officer concerned; or
- (d) the evidence cited in the criminal case discloses facts unconnected with the charge before the court which justify departmental proceedings

(e) additional evidence admissible under rule 16.25 (1) in departmental proceedings is available.

(2) Departmental proceedings admissible under sub-rule (1) may be instituted against Lower Subordinates by the order of the Superintendent of Police but may be taken against Upper Subordinates only with the sanction of the Deputy Inspector-General of Police; and a police officer against whom such action is admissible shall not be deemed to have been honourably acquitted for the purpose of rule 7.3 of the Civil Services Rules (Punjab), Volume I, Part I.”

7. Having pursued the order of dismissal and inquiry report, it is evident that both are based upon the allegations as levelled in the criminal case.
8. Having gone through orders subsequent to the order of discharge, this Court finds that none of the authorities have reconsidered the case of the petitioner in the light of Rule 16.3. Resultantly, orders passed against the petitioner in review are hereby set aside. Punishing authority i.e. respondent No.5 is directed to reconsider the case of the petitioner keeping in view the order of discharge passed by the Criminal Court and the provision as contained in Rule 16.3 of the 1934 Rules. Necessary exercise be done within a period of 08 weeks from the date of receipt of certified copy of the order. Needless to say, fresh order shall be passed only after affording opportunity of hearing to the petitioner and the claim of the petitioner shall be decided by passing a speaking order.
9. Disposed off accordingly.

(PANKAJ JAIN)  
JUDGE

15.03.2023  
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No