

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

205

CWP-19694-2015

Date of Decision: 03.07.2023

Jagpal Sharma

...Petitioner

Versus

Union of India and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Suryaveer Surjewala Advocate for
Mr. S.K. Nehra, Advocate for the petitioner
Mr. V.K. Kaushal, Advocate for the respondents

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant writ petition under Articles 226/227 of the Constitution of India is seeking writ of Certiorari quashing order dated 12.02.2015 (Annexure P-3) passed by respondent No.3 whereby petitioner has been dismissed from service and order dated 10.07.2015 (Annexure P-5) passed by respondent No.2 whereby appeal of the petitioner has been rejected.

2. Learned counsel for the petitioner *inter alia* contends that petitioner has been terminated on the ground that he has committed offence punishable under Section 354 read with Section 448 of the Ranbir Penal Code. The petitioner joined service as General Duty Constable with 32nd Battalion Border Security Force on 20.08.1998. The

impugned order came to be passed in the year 2015. During his service, the petitioner was adorned with 30 rewards including 4 Commendation Cards. The petitioner has been awarded punishment of termination of services which is harsh and it is disproportionate to the alleged offence. The case of the petitioner is squarely covered by a judgment of two Judge Bench of the Hon'ble Supreme Court in ***B.S. Hari Commandant Versus Union of India and Others; 2023 LiveLaw (SC) 303.***

3. On being confronted with the aforesaid judgment, learned counsel for the respondents submitted that the competent authority would reconsider case of the petitioner qua quantum of punishment in the light of aforesaid judgment of the Hon'ble Supreme Court.

4. In view of afore-stated statement of learned counsel for the respondents and judgment of Hon'ble Supreme Court in *B.S. Hari Commandant (supra)*, the impugned order dated 12.02.2015 (Annexure P-3) and order dated 10.07.2015 (Annexure P-5) are hereby quashed to the extent of quantum of punishment. The matter is remanded back to the competent authority to pass afresh order qua quantum of punishment after considering facts of the present case and judgment of Hon'ble Supreme Court in *B.S. Hari Commandant (supra)*. The petitioner at the first instant shall appear before the competent authority on 13.07.2023 at 11:00 AM and thereafter as directed by the competent authority. The competent authority, considering the fact that matter is pending for a

quite long time, would pass an appropriate order within 2 months from 13.07.2023.

Disposed of in aforesaid terms.

(JAGMOHAN BANSAL)
JUDGE

03.07.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>