

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

CWP-20397-2023 (O&M)

Date of Decision:- 14.9.2023

Manbeer Singh @ Manvir Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Veneet Sharma, Advocate for the petitioner.

Mr. I.P.S. Kang, AAG, Punjab.

GURVINDER SINGH GILL, J.

1. The petitioner seeks issuance of a writ in the nature of Certiorari seeking quashing of the following three orders :

- (i) order dated 16.10.2018 (Annexure P-1) passed by respondent No. 5 whereby the Commandant, 7th India Reserve Battalion, Kapurthala while agreeing with the inquiry report, issued show cause notice to the petitioner proposing punishment of dismissal from service;
- (ii) order dated 30.7.2021 (Annexure P-9) vide which the Inspector General of Police, India Reserve Battalion, Patiala has dismissed the revision petition preferred by the petitioner against order dated 5.9.2019 (Annexure P-7) passed by the Commandant, 7th India Reserve Battalion, Kapurthala dismissing the petitioner; and

(iii) order dated 2.5.2023 (Annexure P-11) passed by respondent No. 4 whereby an appeal filed by the petitioner for re-consideration has been dismissed by the Deputy Inspector General of Police (DIG), India Reserve Battalion, Punjab, on the ground that appeal cannot be entertained at that stage by him (DIG) as revision against dismissal had already been dismissed by higher authority i.e. by Inspector General of Police.

2. A few facts necessary to notice for disposal of this petition are that the petitioner had been appointed as a Constable on 11.3.2011. On 13.7.2018, FIR No. 66 dated 13.7.2018 under Section 482, 411 IPC was registered at Police Station Cantonment, Jalandhar against the petitioner with the allegation that the petitioner was found in possession of a stolen motorcycle bearing fake number plates. The petitioner was arrested on the same day at the spot and was granted bail on 16.7.2018.
3. The petitioner was placed under suspension on 16.10.2018 and a departmental inquiry was initiated against him *inter alia* on the ground that the petitioner had concealed the factum of registration of FIR against him and as regards his arrest. Subsequently, he was reinstated in service vide order dated 8.3.2019, subject to outcome of inquiry. Chargesheet was served upon him in respect of the allegations of having been found in possession of a stolen motorcycle and also having concealed the factum of registration of FIR and the factum of his arrest.
4. The petitioner filed his reply to the chargesheet where he took a stand that he had purchased the motorcycle from a person who represented himself to be the owner and that ownership in the registration certificate was yet to be

changed. Upon conclusion of inquiry, the Inquiry Officer found the charges levelled against the petitioner as duly established and submitted his inquiry report to the Commandant, 7th India Reserve Battalion, Kapurthala, who issued show cause notice dated 16.7.2019 (Annexure P-5) to the petitioner proposing a punishment of dismissal. The petitioner submitted his reply dated 5.8.2019 (Annexure P-6) to the same. The Commandant, 7th India Reserve Battalion, Kapurthala considered the reply and while disagreeing with the explanation tendered therein ordered for dismissal of the petitioner vide order dated 5.9.2019 (Annexure P-7).

5. The petitioner preferred a revision petition against the said order which was also dismissed by the Inspector General of Police vide his order dated 30.7.2021 (Annexure P-9). Thereafter, the petitioner came to be acquitted in criminal trial arising out of said FIR No. 66 dated 13.7.2018, Police Station Cantonment, Jalandhar vide judgment dated 29.10.2022 (Annexure P-10). Upon acquittal of the petitioner, he again moved an application to the DIG for reconsideration of the matter and for his reinstatement but the said application was also declined vide impugned order dated 2.5.2023 (Annexure P-11).
6. The learned counsel representing the petitioner vehemently argued that the entire allegations against the petitioner arise out of FIR No. 66 dated 13.7.2018, Police Station Cantonment, Jalandhar and since the petitioner stands acquitted in the said FIR, the dismissal order deserves to be set aside. It has been submitted that while ignoring the allegations regarding possession of stolen motorcycle, even if the remaining allegations i.e. the petitioner having concealed the factum of lodging of FIR against him and the factum of his arrest are taken to be duly established, still the punishment

of dismissal cannot be said to be commensurate with the said misconduct and that a lenient view ought to have been taken in the matter of punishment and he ought to be reinstated by imposing some minor punishment.

7. This Court has considered the aforesaid submissions.
8. While it is correct that the petitioner stands acquitted in the criminal case, which had been lodged against him but a perusal of judgment dated 29.10.2022 (Annexure P-10) vide which the petitioner has been acquitted shows that while the learned JMIC has doubted the factum of recovery of motorcycle but interestingly, while observing so, the JMIC has not referred to statement of PW-1 HC Surjit Singh and PW-2 S.I. Jaswant Singh, I.O. who had proved the recovery memo in respect of recovery of motorcycle. The petitioner came to be acquitted in the aforesaid case as the prosecution, for reasons best known to him, did not even choose to lead evidence to establish the identity of the motorcycle in question, which at the time of recovery was having fake number plates affixed. Though, the prosecution did examine the registered owner Lakhbir Singh who in his cross-examination stated that he could not prove his ownership and that the accused has not stolen his motorcycle but it was never the case of prosecution that the petitioner himself had stolen the motorcycle. The prosecution interestingly, never chose to lead evidence pertaining to registration of the motorcycle in question. In any case, the quality of evidence required in criminal trial is much more stringent than what would be required in departmental proceedings. A smallest of doubt created in case of prosecution can entail acquittal in criminal case.

9. Still further, though the categorical stand of the petitioner, in his reply, that he had purchased the motorcycle in question from some person, who claimed himself to be owner but apparently the said stand is cooked up and an after-thought. The relevant extract from reply filed by the petitioner to the chargesheet is reproduced herein-under:-

“ It is requested that in the Departmental inquiry pending against me, you have charged that when I was posted in the 80th Battalion, PAP Jalandhar in the IRP Team then I had purchased one motorcycle no.PB-02-AZ-5616 make Splendor colour black from one person who claimed it to be his own and I had made part payment of Rs. 9500/- and copy of the bike and transfer was to be made in my name after final payment but when I took the said motorcycle to Phagwara for my Duty, the said motorcycle was parked in Rama Mandi Parking which had been picked up by the vehicle checking team and when I reached the parking they said that the motorcycle is at Police Station Cantt. Jalandhar and when I approached them, they asked me to prove my ownership and I could not prove my ownership at the spot and they registered FIR no. 66 dated 13.7.2018 under section 482, 411 IPC P. S. Cantt. Jalandhar registered against me. I did not steal the motorcycle, but I had purchased the same and the seller did not come to give the documents or receive the remaining payment.”

10. When this Court put a specific query to the petitioner, who was present alongwith his counsel in the Court as to whether he had informed his department about the purchase of vehicle, the petitioner replied that he had not informed his department about purchase of said vehicle. The petitioner, at any stage of trial or inquiry, did not produce any such document indicating purchase of the motorcycle in question either in the nature of any payment receipt or note of delivery or insurance policy or regarding any bank transaction regarding payment of amount in favour of the seller, which could substantiate his stand of having purchased the vehicle in question.

11. Still further, the conduct of the petitioner in not having informed his department regarding his being involved in FIR or being arrested in the case shows that the petitioner despite being member of a disciplined force is far from being disciplined. The said circumstances do not leave any room for taking a lenient view, particularly in the case of a person, who is a member of disciplined force. The impugned orders do not call for any interference and the same are hereby upheld.
12. Finding no merit in the petition, the same is hereby dismissed.

14.9.2023

kamal

Whether speaking /reasoned
Whether Reportable

(Gurvinder Singh Gill)
Judge

Yes / No
Yes / No