

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

CWP-21723 of 2023

Date of decision : November 06, 2023

Head Constable Sanjeev Sharma

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present :-Mr. Mansur Ali, Advocate and
Mr. Tushaar Madaan, Advocate for
Mr. Amarpreet K. Kooner, Advocate
for the petitioner.

Mr. Inderpreet Singh Kang, AAG., Punjab.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking setting aside of orders dated 23.07.2013 (Annexure P-2), 16.01.2015/23.01.2015 (Annexure P-4), 11.10.2019/16.10.2019 (Annexure P-6), 30.5.2022/1.6.2022/8.6.2022 (Annexure P-7) and 19.6.2023/23.6.2023 (Annexure P-8) whereby the petitioner was punished and his appeal as well as review application has been dismissed.

2. Learned counsel for the petitioner at the outset submits that as per Rule 16.3 of the Punjab Police Rules (hereinafter referred to as 'Rules') if an employee is acquitted in the criminal proceedings, the departmental proceedings shall be withdrawn. Rule 16.3 of the Punjab Police Rules reads

as :-

“16.3. Action following on a judicial acquittal. - (1) When a Police Officer has been tried and acquitted by a criminal court he shall be 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 on a different charge; or

(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 Deputy Inspector-General of Police, and a police officer against whom such action is admissible shall not be deemed to have been honorably acquitted for the purpose of rule 7.3 of the Civil Services Rules (Punjab), Volume I, Part I.”

3. The petitioner was subjected to departmental as well as criminal proceedings. The petitioner was acquitted vide judgment dated 28.10.2017(Annexure P-1) passed by the trial court. The department has accepted that judgment. The petitioner after being acquitted by the trial court filed review application which has been dismissed without considering Rule 16.3 of the Rules, even though, petitioner has specifically pointed out that Rule.

4. Faced with this, Mr. Inderpreet Singh Kang, AAG., Punjab who on advance notice is present in Court submits that the reviewing authority- Additional Deputy General of Police, Law and Order Punjab would reconsider the review application of the petitioner and pass a fresh order considering Rule 16.3 of the Rules.

5. In the wake of statement made by learned State counsel, the petition stands disposed of with a direction to Additional Deputy General of

Police, Law and Order Punjab-Reviewing authority to pass a fresh order within a period of three months from today.

6. Before parting with this order, I would hasten to add that the petitioner specifically raised question of applicability of Rule 16.3 of the Rules, however, the respondent while passing impugned orders has not cared of the said Rule. There are so many matters pending before this Court where departmental and criminal proceedings are pending against police officials. Thus, the authorities are directed to notice Rule 16.3 of Punjab Police Rules before passing order while exercising disciplinary/appellate/revisional/reviewing jurisdiction.

(JAGMOHAN BANSAL)
JUDGE

November 06, 2023
archana

Whether speaking/reasoned	Yes
Whether Reportable :	No