

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

CWP No. 29859 of 2022

Date of decision : March 27, 2023

Surinder Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :-Mr. S. S. Rana, Advocate
for the petitioner.

PANKAJ JAIN, J. (ORAL)

By way of present writ petition, petitioner prays for issuance of writ in the nature of certiorari for quashing of order dated 23.07.2013 (Annexure P-3) and that dated 24.12.2015 (Annexure P-4).

The petitioner is serving with the Police department. On 18.04.2012 he along with his colleague were tasked with the duty to take back accused to the Central Jail, Ludhiana after producing him before the Court. However, the accused fled from the custody of the petitioner and his colleague. Owing to the same petitioner was proceeded by the department. After holding regular enquiry, penalty of stoppage of five increments with permanent effect was imposed vide

order dated 23.07.2013 (Annexure P-3). The petitioner preferred appeal there against which was also dismissed vide order dated 24.12.2015 (Annexure P-4).

After about five years a legal notice is stated to have been served at the behest of the petitioner and the petitioner by way of present writ petition, apart from seeking writ in the nature of certiorari also prays for issuance of writ in the nature of mandamus directing the respondents to re-consider the case of the petitioner in terms of legal notice served at the behest of the petitioner.

Learned counsel for the petitioner at the outset submits that in view of the innocuous prayer with respect to decision of the legal notice, directions be issued to the respondents to consider the case of the petitioner.

I have heard learned counsel for the petitioner and have gone through the records of the case.

Admittedly, the impugned orders were passed against the petitioner way back in the year 2013-2015. Directions to decide the legal notice/representations at the hands of the writ courts in such cases have come under by a heavy criticism by the Apex Court in the case of **C. Jacob Vs. Director of Geology & Min. Indus.Est.and another (2008) 10 SCC 115.**

Thus, in view of the fact that the punishment was imposed upon the petitioner in the year 2013 and thereafter appeal was also dismissed there is no ground to grant writ in the nature of mandamus to the petitioner.

Coming on to the other limb of the prayer raised in the present writ

petition, after going through the records of the writ petition, this Court is of the considered opinion that keeping in view the allegations levelled against the petitioner and the fact that he has been treated fairly as the punishment has been imposed only after holding departmental enquiry against the petitioner. This Court cannot sit as a Court of appeal over the findings of the enquiry. Moreover the punishment imposed upon the petitioner is also not found to be disproportionate to the charges levelled against the petitioner. The petitioner being an uniformed member of the Armed Police Forces was assigned with the duty to keep an accused in the custody. However, the manner in which he conducted himself and allowed the accused to fled away, there is no justified reason for interfering in the present writ petition.

Consequently, the writ petition is dismissed.

(PANKAJ JAIN)
JUDGE

March 27, 2023
archana

Whether speaking/reasoned	Yes
Whether Reportable :	No