

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

133

CWP-1812-2024
Date of Decision: 29.01.2024

Satnam Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr.Vikas Gupta, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking setting aside of order dated 16.11.2020 (Annexure P-3) whereby he was compulsorily retired from service and appellate order dated 14.11.2023 whereby appeal against the order of punishment has been dismissed.
2. The petitioner on 02.09.1991 joined respondent-department as Constable. An FIR No.140 dated 26.10.2020 came to be registered against the petitioner while he was posted at Police Station Kalra, District Tarn Taran. The aforesaid FIR was registered under Section 7 of the Prevention of Corruption Act (Amendment Act, 2018) (for short, 'PC Act'). Pursuant to the said FIR, show cause notice dated 04.11.2020 was issued calling upon the petitioner to show cause as to why he should not be prematurely retired from the department. The petitioner did not file reply to aforesaid show cause notice. The SSP, Tarn Taran vide order dated 16.11.2020 noticing the fact that the petitioner has neither filed reply nor appeared for personal hearing ordered to compulsorily retire the petitioner from Police Force. The

petitioner preferred an appeal against the said order which came to be dismissed vide order dated 14.11.2023 passed by DIG, Fatehgarh Range, Fatehgarh. The appellate authority noticed the fact that an FIR No.329 dated 02.10.2012 under Sections 7/13 of P.C.Act and 341 of IPC was registered against the petitioner. He was twice subjected to punishment and 2nd FIR No.140 dated 26.10.2020 under Section 7 of PC Act was registered against him. The appellate authority further noticed observations of Additional Sessions Judge, Tarn Taran which were recorded in the judgment of acquittal dated 24.08.2023.

3. Learned counsel for the petitioner contends that the petitioner was never served copy of show cause notice and order of compulsory retirement was passed in gross violation of principles of natural justice. The impugned orders have been passed in violation of mandate of Rule 9.18 (2) of Punjab Police.

4. Per contra, learned State counsel, who on advance notice, is present in Court, submits that the petitioner is a habitual offender. The trial Court has acquitted the petitioner in FIR No.140 dated 26.10.2020, however, the Court has observed that accused is a member of Punjab Police Force and allegations are serious. The department is at liberty to proceed against him independently without being influenced with observations and findings of the Court.

5. I have heard the arguments of learned counsel for the parties and perused the record.

6. The conceded position emerging from record is that an FIR No.329 dated 02.10.2012 under Sections 7 and 13 of PC Act was registered against the petitioner. On account of affidavit of complainant, the cancellation report was filed. The petitioner was departmentally punished twice on account of absence from duty. Another FIR No.140 dated 26.10.2020 under Section 7 of PC Act was registered against the petitioner which compelled the authorities to compulsorily retire the petitioner. The trial Court has acquitted the petitioner on the ground of

benefit of doubt, however, observed that department is at liberty to proceed against him independently. The petitioner was issued show cause notice and thereafter order of punishment was passed. He further filed appeal which came to be dismissed by appellate authority.

7. The petitioner has been acquitted in FIR No.140 dated 26.10.2020, however, the trial Court has recorded categorical findings against the petitioner. The relevant extracts of the judgment dated 24.08.2023 are reproduced as below :

“As far as the video is concerned, as already discussed, the connecting evidence was required to be collected by the I.O. as to who prepared the video and when the same was prepared. When the video was handed over to Press Reporter and who handed over the same and due certificate was required to be procured from the Forensic Science Laboratory and press reporter was also necessary witness who was also required to be associated in the investigation. Even he was not associated in the investigation. Therefore, for want of evidence no offence is made out against the accused. As such, the accused is thus acquitted of the charge under Section U/s 7 of the Prevention of Corruption Act, 1988 and Amendment Act 2018. However, accused is member of Punjab police force and the allegations are serious, the department is at liberty to proceed against him independently without being caused with the observations and findings given in this case. Accused has been acquitted on the ground of benefit of doubt but not found the allegations false. His bail bonds and surety bonds are hereby discharged. Case property, if any is hereby ordered to be disposed of in accordance with rules after expiry period of limitation for filing the appeal or as per the directions of the learned appellate court as the case may be. Case file be consigned to record room.”

8. From the perusal of above findings, it is quite evident that the petitioner has been acquitted on the ground of benefit of doubt. The video went viral on social media wherein the petitioner was found accepting bribe of Rs.2,000/- for filing cancellation report. The said evidence was electronic evidence and in the absence of proper investigation and examination of persons connected with the said video, the petitioner came to be acquitted. The petitioner on the earlier occasion as well was involved in an offence punishable under Sections 7 and 13 of PC Act. The petitioner was further subjected to two departmental punishments for absence from duty. Involvement of two FIRs under PC Act and two departmental punishments indicate conduct of the petitioner.

9. The sole grievance of the petitioner is that he was prematurely retired without granting fair opportunity of hearing. It is true that no adverse order can be passed without confronting the aggrieved person with adverse material and granting opportunity of personal hearing.

10. In the peculiar facts and circumstances, an order passed by an authority may sustain though it was passed without granting opportunity of hearing provided aggrieved person is granted post decisional hearing. In the case in hand, the order of premature retirement was passed by SSP and petitioner preferred an appeal before appellate authority. The appeal was dismissed by DIG, Ferozepur. The appellate authority considered the entire issue involved. The petitioner, at that stage, got adverse material as well as opportunity of hearing. The petitioner has been heard by this Court, thus, the petitioner has again got opportunity of hearing. The petitioner was involved in two criminal cases and both times there was allegation of accepting bribe. There was electronic evidence in the form of video which went viral on social media. It caused loss of reputation to the entire organization. The petitioner was a member of Armed Force where standard of integrity and sincerity is very high. The petitioner besides involved in two

criminal cases, was punished twice in departmental proceedings. These facts need to be collectively considered. These incidents shed light on the character and antecedents of the petitioner. The trial Court while acquitting has recorded adverse remarks against him. The petitioner in view of his conduct and antecedents could be dismissed from service in terms of Rule 16.2 of the 1934 Rules whereas department taking a lenient view has prematurely retired him. The petitioner except raising question of violation of principle of natural justice could not point out any illegality in the impugned orders.

11. This Court, considering facts and circumstances in totality, finds that it would not be just, fair and in the interest of justice to set aside impugned orders and ask the department to pass afresh order. The petitioner has been prematurely retired and he is going to get all retiral benefits.

12. In the wake of above discussion and findings, this Court is of the considered opinion that the present petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

29.01.2024
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>