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

**103** **CWP-17246-2022**
**Date of decision: 26.11.2024**

**TAJINDER KUMAR AND ANOTHER** **….PETITIONERS**

**Vs.**

**DIRECTOR GENERAL OF POLICE PUNJAB AND OTHERS**

**...RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Dr. Rau P.S. Girwar, Advocate,
Ms. Archana Puhanian, Advocate
Mr. K.T. Rau, Advocate and
Ms. Babita Gupta, Advocate
for the petitioners.

Mr. Aman Dhir, DAG, Punjab.

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**JAGMOHAN BANSAL, J (ORAL)**

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of:

(i) order dated 24.07.2015 (Annexure P-12) whereby they were subjected to punishment of forfeiture of one year service.

(ii) Order dated 05.07.2017 (Annexure P-14) whereby Appellate Authority dismissed their appeal.

(iii) Order dated 30.04.2019 (Annexure P-19) whereby DGP dismissed their revision.

2. The petitioner No. 1 was implicated in another FIR. He is behind the bars because he has been convicted by the trial Court. Dr. Rau P.S. Girwar, Advocate does not press instant petition *qua* petitioner No. 1. Accordingly at this stage, the petition *qua* petitioner No. 1 is dismissed as withdrawn.

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3. The petitioner is serving Punjab Police as Assistant Sub-Inspector (Local Rank). He on account of non-service of summons upon an accused was subjected to departmental enquiry which culminated in punishment order passed by jurisdictional Senior Superintendent of Police. He unsuccessfully preferred appeal before Appellate Authority. He further preferred revision before Director General of Police which came to be dismissed by impugned order dated 30.04.2019.

4. The petitioner was subjected to inquiry and subsequent punishment on account of non-service of summons upon an accused. The Inquiry Officer concluded that there was lapse on the part of petitioner in delivering summons to accused Manohar Lal @ Romi. The bailable warrants were issued for 01.02.2007, 15.02.2007, 28.02.2007 and 14.03.2007 respectively apart from notices for 15.11.2006, 29.11.2006 and 13.12.2006.

5. Learned counsel for the petitioner submits that summons could not be served by petitioner because he was either on election duty or Chief Minister's duty. A report was prepared and submitted before the trial Court. The respondents have mechanically implicated 5 officials. A common order has been passed and individual role has not been properly considered.

6. Mr. Aman Dhir, DAG, Punjab submits that it is factually correct that common inquiry was conducted with respect to different police officials who were posted in District Court, however, case of each employee was considered and they were found guilty. The Disciplinary Authority imposed punishment after considering lapse on their part.

7. I have heard the arguments of both sides and with the able assistance of learned counsel perused the record.

8. From the perusal of record, it comes out that Inquiry Officer in his report *qua* the petitioner has concluded as below:-

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"*Const. Mohinder Singh No. 1230/Bathinda was given the responsibility to deliver notices to accused Manohar Lal @ Romi by the Hon'ble Court during the hearing of the case for dated 15.11.2006, 29.11.2006, 13.12.2006 and bailable warrants for dated 01.02.2007, 15.02.2007, 28.02.2007 and 14.03.2007 and out of these, no notice or bailable warrant is delivered.*"

9. From the reports of different dates with respect to notices/bailable warrants for 29.11.2006, 13.12.2006 and 28.02.2007, it is evident that service could not be effected because petitioner was on other official duties. The Inquiry Officer as well as Disciplinary Authority has not considered said aspect which was having direct bearing on the allegations against petitioner. The matter needs to be reconsidered in the light of clarification/explanation furnished by petitioner. Accordingly, the petition is allowed and the matter is remanded to Disciplinary Authority to reconsider the stand of petitioner and pass an appropriate order. The Disciplinary Authority shall not be influenced by observations made by this Court.

26.11.2024 **[JAGMOHAN BANSAL]**
manoj **JUDGE**

Whether speaking/reasoned Yes/No
Whether reportable Yes/No

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