

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-6396-2024
Date of Decision: 18.03.2024

Palwinder Singh ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. A.K. Walia, Advocate for the petitioner
Mr. Aman Dhir, Deputy Advocate General, Punjab

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of order dated 25.03.2016 (Annexure P-2) whereby he has been dismissed from service.
2. The petitioner was enrolled as a Constable in Punjab Police in the year 1994. On 06.12.1996, he solemnized marriage with Balwinder Kaur and the couple was blessed with a girl child. On account of matrimonial discord, his estranged wife lodged a criminal complaint against him under Section 406, 498-A of Indian Penal Code, 1860 (for short 'IPC'). The Trial Court vide judgment dated 02.12.2011 convicted him under Section 498-A of IPC. He was awarded sentence of 2 years. He unsuccessfully preferred appeal before the Appellate Court. He filed *CRR No.578 of 2016* before this Court which has been allowed vide judgment dated 05.01.2024 (Annexure P-3).

3. The respondent vide order dated 25.03.2016 (Annexure P-2), on account of conviction, dismissed the petitioner from service. The order dated 25.03.2016 (Annexure P-2), as enclosed by petitioner, is reproduced as below:-

“Complaint Diary No.572/B dated: 02.02.2016 from Balwinder Kaur wife of Head Constable Palwinder Singh No.311/Ludhiana (Rural) daughter of Darshan Singh resident of Bodalala, Tehsil Jagraon came present and informed the office that her husband HC/PR Palwinder Singh No.311/Ludhiana (Rural) resident of Kiri, Tehsil Jagraon, District Ludhiana is serving in the Police Department. He was convicted by Hon'ble Court of Sh. Girish Kumar, SDJM Jagraon vide Judgment dated: 02.11.2011 under Section 498-A IPC, he was sentenced to undergo RI 2 years and also pay a fine of Rs.3000/-, upon which, present employee preferred to file an appeal against the judgment before the Court of Sh. S.S. Mann, ADJ, Ludhiana. The Hon'ble court of Sh. S.S. Mann dismissed the appeal vide order dated 06.01.2016. Now the above employee is lodged in central jail Ludhiana. Due to this, in compliance of PPR 16.2 (2), HC P/PR Palwinder Singh No.311/Ludhiana (Rural) is dismissed from duty from today i.e., 25.03.2016 after-noon. This employee is being informed that he reserves right to file appeal to higher Authority and if he wants to file an appeal, then as per Punjab Police Rule 16.30 and 16.32, he can file appeal within 30 days after receipt of order.

*Order be entered in registered.
Senior Superintendent of Police
Ludhiana (Rural)”*

4. Mr. A.K. Walia, Advocate submits that petitioner was dismissed from service on the sole ground of conviction and as per second proviso to Rule 16.2(2) of Punjab Police Rules, 1934 (for short ‘1934 Rules’), the Disciplinary Authority is duty bound to re-consider punishment of dismissal

in case conviction is set aside by Appellate or Revisionary Court. This Court has set aside judgment of conviction, thus, case of the petitioner needs to be re-considered in the light of aforesaid Rule.

5. Notice of motion.

6. Mr. Aman Dhir, Deputy Advocate General, Punjab, who on advance notice is present in Court, accepts notice on behalf of the respondents. He submits that representation of the petitioner is pending before the Disciplinary Authority i.e. Senior Superintendent of Police, Ludhiana (Rural)- respondent No.3. He assures the Court that competent authority would decide claim of the petitioner within eight weeks from today.

7. Learned counsel for the petitioner agrees to the aforesaid arrangement.

8. In the wake of statement of both sides, the present petition is disposed of with a direction to respondent No.3-Senior Superintendent of Police, Ludhiana (Rural) to decide claim of the petitioner in terms of proviso to Rule 16.2 (2) of 1934 Rules within eight weeks from today.

(JAGMOHAN BANSAL)
JUDGE

18.03.2024
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>