

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

Date of decision:- 15.05.2024

...Appellant(s)

State of Haryana and others

...Respondent(s)

Mr. Deepak Balyan, Additional Advocate General, Haryana.

G.S. SANDHAWALIA, A.C.J. (ORAL)

2. The learned Single Judge noticed that it was the appellant-writ petitioner's argument that on account of his acquittal dated 30.07.2019 in case FIR No. 189 dated 14.07.2008 under Sections 221/222/223/120-B of the Indian Penal Code (IPC), Police Station Civil Lines, Sonipat, he was seeking re-instatement which had been rejected and, therefore, was of the considered



opinion that there was no Rule providing for re-instatement upon acquittal in a criminal case.

3. Counsel has vehemently submitted that apart from the appellant-writ petitioner, there were two other delinquent police officials, namely, Inderjeet Singh and Iqbal Singh who were also dismissed from service and in their case they had been re-instated on 21.04.2009. It was, therefore, argued that the same principle should apply to the appellant-writ petitioner and counsel sought to bring into play the argument of parity.

4. The State was directed to file its response as to the distinction as such of the role of the appellant-writ petitioner qua the other two similarly situated persons. The affidavit of the Deputy Commissioner of Police, Headquarter, Sonipat has been filed.

5. A perusal of the same would go on to show that it has been specifically averred that the dismissal in the case of the appellant-writ petitioner was under Article 311(2)(b) of the Constitution of India. The interference as such qua Inderjeet Singh and Iqbal Singh had been from dismissal to re-instatement with imposition of a major punishment to the extent of stoppage of five future annual increments with permanent effect. It was averred that the appellant-writ petitioner was responsible for the fleeing of one Ram Karan, who was an accused in case FIR No. 139, dated 22.07.2007 under Sections 302/307/34/120B of the IPC and 25/27/54/59 of the Arms Act, Police Station Sadar, Sonipat, from custody on account of his meeting with Ram Karan's associates. The appellant had managed to get himself deputed from Police Lines, Sonipat for the guard duty with the said accused who was



admitted in Civil Hospital, Sonipat and had taken away Ram Karan on the motorcycle of one Fancy, whereas the other two officials were only negligent as such. It is noted that Inderjeet Singh had left duty for his dinner and Iqbal Singh had been sent back to hospital, whereas the appellant-writ petitioner took out the accused - Ram Karan from the hospital which had led to his escape. It is in such circumstances, the State has defended its action why Inderjeet Singh and Iqbal Singh have got re-instatement with a major punishment being imposed on them on account of their negligence as such.

6. We have also perused the order dated 16.07.2008, whereby the dismissal was imposed on the appellant-writ petitioner. The Superintendent of Police, Sonipat invoked the provisions under Article 311(2)(b) of the Constitution of India while noting that the appellant-writ petitioner was hand in glove with Ram Karan and his associates who were known hardcore criminals. It was recorded that nobody from the public or police force was likely to stand as a witness either in a departmental enquiry or in a Court of law due to their fear as they were renowned for terrorizing the witnesses in the crimes against them and Constable Ravinder Kumar himself might intimidate and win over the witnesses. It was noticed that Ram Karan wanted to terrorize and subdue one Devender @ Bookha son of Randhir resident of Baiyyanpur, District Sonipat who was a key witness in the aforesaid murder case, wherein Ram Karan was the prime accused and some other witnesses had already been terrorized and won over by Ram Karan. It was in such circumstances, the extreme step of dismissing the appellant-writ petitioner from service had been taken on the ground that it was not expected of a member of a disciplined force



to act in the manner which had shaken the faith of the citizens of Haryana in the entire police force and eroded the faith of the common man. The finding, thus, was recorded that it was not practicable to hold a regular departmental enquiry which is in sum and substance the essence of the provisions under Article 311(2)(b) of the Constitution of India

7. Apparently, qua Inderjeet Singh and Iqbal Singh, a regular departmental enquiry was conducted which would be clear from the order dated 21.04.2009, whereby their appeals were accepted and the dismissal order was varied to stoppage of five future annual increments with permanent effect. Thus, the argument that it was a case of parity is liable to be rejected. The role of the appellant-writ petitioner was, thus, far greater keeping in view his involvement in facilitating the escape of Ram Karan and subsequent registration of the criminal case against him. The acquittal of the appellant-writ petitioner as such, thus, would not take him a long-way. Rather, even the trial Court was forced to observe that on account of poor investigation, the prosecution had failed to connect the appellant-writ petitioner in its entirety with the incident and gave him the benefit as such of doubt which substantiated what the dismissal authority had recorded.

8. In ***Kuldip Singh Vs State of Punjab and others***, 1996(10) SCC 659, the Apex Court upheld the order whereby the dispensing was done with the departmental enquiry on the ground that it was not reasonably and practically possible to hold such an enquiry. It was held that once the conclusion had been arrived at by the authority that it was not reasonably



practicable to hold a disciplinary enquiry and there was no allegation of mala-fides as such, it was not possible to take a different view.

In *Satbir Singh and others Vs The Union of India and others*, 1986 AIR (SC) 555, a three Judges Bench of the Apex Court arrived at the conclusion that ‘who is to guard the guards’ and held that as a person in uniform had turned rebel, the principles would be invoked as such.

In *Union Territory, Chandigarh Vs Mohinder Singh*, 1997(2) SCT 39 and *Union Territory, Chandigarh Vs Ex. S.I. Gurdit Singh*, (1997) 10 SCC 430, the same principle was laid down.

In *Ved Mitter Gill Vs U.T. Administration, Chandigarh*, 2015(8) SCC 86, it was held that the circumstances were to be seen and since the necessary ingredients were made out the order as such was not liable to be interfered with.

9. Resultantly, keeping in view the above, we are of the considered opinion that it would not be an appropriate case as such to interfere in the order passed by authorities.

10. The appeal being meritless, accordingly, stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

15.05.2024
Amodh Sharma

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