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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10479-2005 (O&M)
Date of Decision: 04.09.2024

RATTAN LAL

..... Petitioner

Versus

STATE OF PUNJAB AND ORS.

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Ms. Sonia G. Singh, Advocate for the petitioner.

Mr. Aman Dhir, DAG, Punjab with
Mr. G.S. Bhullar, AAG, Punjab.

Mr. L.S. Sidhu, Advocate for respondent No.7.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 26.04.2004 (Annexure P-9) whereby petitioner was awarded punishment of forfeiture of 2 years approved service and order dated 29.04.2004 (Annexure P-10) whereby name of petitioner was removed from C-II List.

2. The petitioner in the year 1990 was appointed as a Constable with Punjab Police. He alongwith another Constable namely Amarjit Singh visited one Village of District Fazilka. They allegedly collected a sum of ₹400/- from a medical practitioner. The respondent initiated departmental proceedings against petitioner as well as Amarjit Singh. The proceedings against petitioner came to be concluded at Muktsar whereas proceedings against Amarjit Singh concluded at Ferozepur. The SSP,



Ferozpur exonerated Amarjit Singh from all the charges whereas SSP Muktsar declared petitioner guilty and ordered to forfeit 2 years of approved service. It was further ordered that suspension period would be considered as qualifying service. The punishment was awarded by order dated 26.04.2004 (Annexure P-9). The SSP, Muktsar by order dated 29.04.2004 (Annexure P-10), relying upon Rule 13.8 A of Punjab Police Rules, 1934 (for short '1934 Rules') as well as communication of DGP ordered to remove name of petitioner from C-II List. It is apt to mention here that C-II List comprises name of Constables who are exempted from undergoing Lower School Course for promotion.

3. Ms. Sonia G. Singh, Advocate for the petitioner submits that petitioner and Amarjit Singh were subjected to same set of charges and they had committed alleged offence at the same point of time. The Competent Authority has fully exonerated Amarjit Singh, however, petitioner was subjected to major punishment which has adversely affected his career. The name of petitioner at the most could be removed from C-II List for 2 years whereas his name was permanently removed. The act of respondent amounts to violation of Article 14 of the Constitution of India. Further, the quantum of punishment awarded was disproportionate to alleged offence.

4. On being confronted with findings of jurisdictional authorities as well as appellate authorities, Ms. Sonia G. Singh, Advocate submits that grievance of the petitioner would be redressed, if considering the order of co-accused, the name of petitioner is restored in C-II List on the expiry of period of punishment.

5. Mr. Aman Dhir, DAG, Punjab and Mr. G.S. Bhullar,



AAG, Punjab submit that it is factually correct that Amarjit Singh was equally guilty of commission of alleged offence as was committed by petitioner, however, order of punishment was passed by two different authorities, thus, Amarjit Singh came to be fully exonerated and petitioner was subjected to punishment. There can be no negative equality. The exoneration of Amarjit Singh, co-accused of petitioner does not entitle to petitioner any concession or lenient view. The name of petitioner was bound to be deleted from C-II List because he was subjected to major punishment by jurisdictional SSP. The name of petitioner was not restored to C-II List because jurisdictional SSP did not, at any stage, form an opinion that name of petitioner should be restored to C-II List. Further, there was no extraordinary achievement of petitioner after removal of his name from C-II List, thus, he was not entitled to restoration of his name in C-II List.

6. I have heard the arguments and perused the record.

7. The conceded position emerging from the record is that the petitioner alongwith another Constable namely Amarjit Singh was subjected to departmental proceedings alleging receipt of ₹400/- from a medical practitioner. The said medical practitioner during departmental inquiry appeared and confirmed his statement, however, did not confirm payment of ₹400/- to petitioner and his accomplice. Counsel of said medical practitioner, during the course of hearing confirmed that petitioner alongwith his companion met his client, however, there was no payment of ₹400/- to them. Both the Constables were subjected to same set of allegations in the inquiry, however, Amarjit Singh was fully exonerated by SSP, Ferozepur and petitioner was subjected to major



punishment of forfeiture of 2 years of approved service by SSP, Muktsar. The petitioner was part of C-II List, thus, he was going to be promoted to the post of Head Constable. Amarjit Singh got promotion, however, petitioner got promotion in 2015, after passing Lower School Course.

8. The petitioner in the writ petition had sought setting aside of punishment order, however, during the course of hearing has confined to restoration of his name to C-II List in terms of Rule 13.8 A of 1934 Rules, on the expiry of period of punishment. The petitioner and Amarjit Singh were accomplice and they had jointly committed alleged offence. The respondent is justifying exoneration of Amarjit Singh on the ground that order was passed by different SSP. The order passed by SSP could be revised by higher authorities, however, respondent has chosen to accept order of SSP, Ferozepur. Two different Officers with respect to two delinquents cannot pass two different orders when they are accused of same offence which they had committed in connivance with each other. It is a settled proposition of law that there cannot be negative equality, however, Court cannot turn a blind eye to the fact that for the same set of allegations, the respondent has fully exonerated one delinquent and subjected another delinquent to major punishment. He was not only subjected to major punishment but also disqualified from retention in C-II List. He was removed from C-II List in terms of Rule 13.8 A of 1934 Rules. The said rule is reproduced as below:

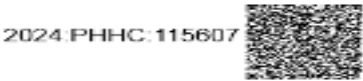
“13.8-A. Disqualification for admission to or retention in Lists A, B or C. - (1) the infliction of any major punishment shall be a bar to admission to or retention in lists A, B or C, provided that (a) for special reasons to be recorded by the Superintendent in each case, and subject to confirmation by the Deputy Inspector-



General, this disqualification may be waived, and (b) after six months' continuous good conduct in the case of censure or confinement to quarters or on expiry of the period of reduction in the case of reduction for a specified period, a constable may be readmitted at the discretion of the Superintendent.

(2) Gazetted Officers shall look out for, and encourage their Inspectors and Sub-Inspectors to bring to notice, Constables who, by reason of their general character and ability or of special acts, are suited for inclusion in lists A, B or C, and shall, after satisfying themselves by necessary enquiries, make suitable recommendations to the Superintendent."

9. From the perusal of above quoted Rule, it is evident that if a Police Officer is subjected to major punishment his name is not retained in A, B or C List. The respondent is maintaining two separate lists i.e. C-I and C-II for Officers who undergo school course and who are exempted from undergoing school course. The name of petitioner was appearing in C-II List on account of his special achievements. He was exempted from Lower School Course. As per aforesaid rule, Superintendent subject to confirmation by DIG may waive off disqualification for special reasons to be recorded. Meaning thereby, Superintendent despite the fact that an Officer is subjected to major punishment exempt him from removal of his name from A, B or C List. It further provides that Superintendent at its discretion after 6 months continuous good conduct, in case of censure or confinement to quarters or on the expiry of period of reduction for a specified period, may readmit delinquent to A, B or C List. The Superintendent has discretion to restore name of an Officer to A, B or C List after 6 months continuous good conduct or on the expiry of period of reduction in the case of reduction of specified period. The petitioner in



the case in hand was subjected to forfeiture of 2 years of approved service. He after the expiry of said period could be readmitted to C-II List, however, no such power was exercised by Superintendent. In the normal course, matter should be remanded to Superintendent to consider claim of the petitioner, however, in view of passage of two decades period, I do not find it appropriate to remand the matter back to Superintendent to reconsider case of the petitioner.

10. Considering the fact that Amarjit Singh who was similarly situated with the petitioner was fully exonerated and mandate of Rule 13.8A, I find it appropriate to order to restore name of petitioner to C-II List on the expiry of two years period of punishment. The respondent shall reconsider case of petitioner for promotion, however, it is made clear that petitioner would not be entitled to arrears because he has not discharged duties of higher post. The needful shall be done within 3 months from today.

11. Pending misc. application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

04.09.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>