

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

(258)

CWP-10584-2023

Date of decision: - 13.03.2024

Phool Kumar

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. P.K. Chugh, Advocate
for the petitioner.

Mr. Amandeep Joshi, DAG, Haryana.

VIKAS BAHL, J. (ORAL)

1. Present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of an order, direction or a writ especially in the nature of certiorari for quashing of show cause notice dated 12.04.2023 (Annexure P-5) issued by respondent No.3, whereby the promotion orders dated 08.01.2020 (Annexure P-1) and dated 24.09.2022 (Annexure P-2) of the petitioner, have been proposed to be withdrawn.

2. On 16.05.2023, a Co-ordinate Bench of this Court was pleased to pass the following order: -

“Learned counsel for the petitioner contends that the petitioner was appointed as Constable in Haryana Police on 30.10.1989. Thereafter he was promoted as Head Constable in the year 2013. During his duty, one accused who was in custody of the petitioner and his companions jumped in front of the bus and died on 24.03.2018. FIR No.37 was registered on 24.03.2018 under Sections 306, 34 IPC against the petitioner and his team members. A show cause notice was

issued to the petitioner on 24.07.2018. The reply filed by the petitioner was found to be unsatisfactory and a departmental enquiry was initiated against him and other companions on 21.08.2018. The Enquiry Officer after due procedure exonerated the petitioner and others from charges. The punishing authority also agreed with the findings of exoneration recorded by the Enquiry officer and thereafter the petitioner was promoted as Exemptee Assistant Sub Inspector on 08.01.2020. The petitioner was further promoted as officiating Assistant Sub Inspector vide order dated 24.09.2022. Thereafter a show cause notice was again issued to the petitioner in the context of withdrawal of his promotions on 08.01.2020 and 24.09.2022 on the ground that FIR No.37 dated 24.03.2018 was registered after conversion of offence from 306 to 223 read with Section 34 IPC and the same is still pending.

Learned counsel for the petitioner submits that despite the pendency of the aforesaid FIR for the original offences under Sections 306, 34 IPC, the petitioner was exonerated in the departmental enquiry and was further promoted to the post of Exemptee Assistant Sub Inspector and the factum of the aforesaid FIR was very much in the knowledge of the competent authority. The petitioner has also replied to the show cause notice.

Notice of motion returnable on 18.10.2023.

Till the next date of hearing, proposed action in pursuance of the show cause notice dated 12.04.2023 be not implemented.

16.05.2023

**(RAJ MOHAN SINGH)
JUDGE"**

3. During the course of arguments, learned counsel for the petitioner as well as learned State counsel have submitted that since the reply has already been filed to the show cause notice dated 12.04.2023 (Annexure P-5), thus, the competent authority of respondent No.1-State be directed to take a final decision on the same and till the said time and also for a period of two weeks thereafter, in case, the decision is against the petitioner, the interim order granted by a Co-ordinate Bench of this

Court be continued.

4. Keeping in view the above-said facts and circumstances, the present writ petition is disposed of with a direction to competent authority of respondent No.1-State to take a final decision on the show cause notice dated 12.04.2023 (Annexure P-5) and till the time the said final decision is taken, the interim order dated 16.05.2023 would continue and also for a period of two weeks thereafter, in case, the decision is against the petitioner.

5. It is made clear that this Court has not opined on the merits of the case and competent authority of respondent No.1-State would consider and decide the matter independently, in accordance with law.

March 13, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No