

205 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

1)CWP-21951-2014  
Date of Decision:04.01.2024

MANISH KUMAR..... Petitioner

Versus

STATE OF PUNJAB AND ORS..... Respondents

2)CWP-22246-2014  
PARAMJIT SINGH.....Petitioner

Versus

STATE OF PUNJAB AND ORS....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Gagneshwar Walia, Advocate and  
Mr. Fateh Singh Dhillon, Advocate  
for the petitioner (s).

Mr. Aman Dhir, DAG, Punjab.

\*\*\*\*  
JAGMOHAN BANSAL, J. (Oral)

1. By this common order CWP-21951-2014 and CWP-22246-2014 are disposed of since issue involved in both the petitions and prayer sought are common. With the consent of parties and for the sake of brevity, facts are borrowed from CWP-21951-2014.
2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 16.10.2014 (Annexure P-4) passed by Deputy Inspector General (Administration) (for short ‘DIG’).
3. The petitioner is a State Level Kabaddi player. The petitioner in terms of directions issued by DIG, Ferozepur Range, Ferozepur came to be appointed as Ward Attendant which is a Class-IV post. The appointment was made against a regular post which was lying vacant.

The petitioner was issued appointment letter dated 28.02.2011 **(Annexure P-1)** wherein petitioner was extended regular pay scale of 4900+10608+1300 (Grade Pay). The petitioner came to be dismissed vide order dated 19.03.2012. By that time, the petitioner had already completed his probation period of 1 year. The petitioner preferred an appeal before Appellate Authority i.e. DIG, Ferozepur. The appeal came to be allowed vide order dated 18.04.2012. The Appellate Authority ordered to restore service of the petitioner. The order dated 19.03.2012 passed by SSP came to be set aside. The petitioner continued to work on the post of Ward Attendant till October'2014. Like a bolt from the blue, the petitioner came to be dismissed vide order dated 16.10.2014 passed by DIG (Administration). The DIG passed said order with the approval of Director General of Police.

4. Learned counsel for the petitioner submits that petitioner was appointed against a regular post and if there was any irregularity in the appointment, it was inadvertent mistake on the part of appointing authority. The petitioners are in service since 2011 and it would be travesty of justice, if at this belated stage, the petitioners are asked to leave their office. The order dated 18.04.2012 was passed by DIG and impugned order has also been passed by DIG. The same authority could not recall an appellate order.

5. Per contra, learned State counsel submits that appellate order dated 18.04.2012 passed by DIG was recalled by DIG in terms of power conferred by Rule 16.28 of Punjab Police Rules, 1934. The said order was passed with the prior approval of DGP.

6. I have heard the arguments of both sides and with the able

assistance of learned counsels perused the record.

7. The conceded position emerging from the record is that the petitioner came to be appointed vide appointment letter dated 28.02.2011. He was appointed against regular post and till date he is working with respondent. The appointment of petitioner was cancelled by order dated 19.03.2012 passed by SSP. The order dated 19.03.2012 passed by SSP came to be set aside by DIG vide order dated 18.04.2012. The DIG had passed said order acting as an Appellate Authority. The impugned order dated 16.10.2014 has also been passed by DIG (Administration).

8. As per learned State Counsel, the DIG has recalled order dated 18.04.2012 passed by DIG in exercise of power conferred by Rule 16.28 of Punjab Police Rules 1934.

For the ready reference Rule 16.28 of Punjab Police Rules 1934 is reproduced as below:

*“16.28 Powers to review proceedings. -(1) The inspector-General, a Deputy Inspector-General, and a Superintendent of Police may call for the records of awards **made by their Subordinates and confirm, enhance, modify or annul the same, or make further investigation or direct such to be made before passing orders.** The State Government may also call for the records and review the awards made by the Inspector General of Police Punjab or by any other authority subordinate to him.*

*2. If an award of dismissal is annulled, the officer annulling it shall state whether it is to be regarded as suspension followed by reinstatement, or not. The order should also state whether service previous to dismissal should count for pension or not.*

*3. In all cases in which officers purpose to enhance an award they shall, before passing final orders, give the*

*defaulter concerned an opportunity of showing cause, either personally or in writing, why his punishment should not be enhanced.”*

9. From the perusal of above quoted rule, it is quite evident that Inspector General or Deputy Inspector General or Superintendent of Police may review order passed by its subordinate.

In the case in hand, DIG has reviewed order passed by another DIG. The said rule does not confer power upon DIG to recall order passed by another DIG. The language of the aforesaid rule is plain and unambiguous. From the plain reading of the rule, it is quite evident that a DIG cannot review order passed by another DIG. As the impugned order has been passed contrary to mandate of Rule 16.28 of Punjab Police Rules, the impugned order deserves to be set aside.

There is another aspect of the matter which needs to be considered. The petitioners joined in 2011 and till date they are working with respondent as Class-IV employees. It would not be in the interest of justice and fitness of things, if, at this belated stage, they are dismissed from service especially when they were appointed against regular post. The petitioners are Class-IV employees and they cannot be blamed for any irregularity on the part of senior police officials.

10. In the wake of above facts and findings, the present petitions deserve to be allowed and accordingly allowed.

( JAGMOHAN BANSAL )  
JUDGE

04.01.2024  
*Ali*

|                           |               |
|---------------------------|---------------|
| Whether speaking/reasoned | Yes/No        |
| <i>Whether Reportable</i> | <i>Yes/No</i> |