



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

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CWP-16104-2024

Decided on : 16.07.2024

Kulwinder Singh

... Petitioner(s)

Versus

Commissioner of Police, Ludhiana and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Aayush Gupta, Advocate
for the petitioner(s).

Mr. Aman Dhir, DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

1. By way of present writ petition, petitioner – Kulwinder Singh, aged 49 years, has filed the instant writ petition for seeking direction to the respondents to reinstate the petitioner back in service along with all consequential benefits on account of the fact that he has been acquitted in the criminal case i.e. FIR No.49, dated 24.04.2005, under Sections 466, 468, 470, 471 of IPC, registered at Police Station Division No.8, Ludhiana.

2. Counsel for the petitioner submits that the petitioner joined the Punjab Police Services on 03.07.1993 as Constable. Later on, on account of registration of criminal case i.e. FIR No.49, dated 24.04.2005, under Sections 466, 468, 470, 471 of IPC, registered at Police Station Division No.8, Ludhiana, against him, he was convicted by the Court of learned Judicial Magistrate Ist Class, Ludhiana, vide judgment dated 03.02.2012.

3. Further submits that after the judgment of conviction dated 03.02.2012, respondent No.1 – the Commissioner of Police, Ludhiana,



empowered under Rule 16.2 of the Punjab Police Rules, 1934, dismissed the petitioner from police service vide order dated 19.04.2012 (Annexure P-1).

Relevant Rule 16.2 of the Punjab Police Rules, 1934(2), as mentioned in the writ petition, are reproduced here-under also:-

“Dismissal. (1) Dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect of continued misconduct proving incorrigibility and complete unfitness for police service. In making such an award regard shall be had to the length of service of the offender and his claim to pension.

[(2) If the conduct of an enrolled police officer leads to his conviction on a criminal charge and he is sentenced to imprisonment, he shall be dismissed:

Provided that a punishing authority may, in an exceptional case involving manifestly extenuating circumstances for reasons to be recorded and with the prior approval of the next higher authority impose any punishment other than that of dismissal:

Provided further that in case the conviction of an enrolled police officer is set aside in appeal or revision, the officer empowered to appoint him shall review his case keeping in view the instructions issued by the Government from time to time in this behalf.”

4.

Counsel for the petitioner further submits that against the



judgment of conviction dated 03.02.2012, petitioner moved to the appellate Court and this time, vide judgment dated 17.09.2013 (Annexure P-2), the Appellate Court while exercising the powers of criminal jurisdiction, made specific observation that prosecution has miserably failed in proving its case against the appellant (petitioner) beyond the shadow of reasonable doubt.

The specific observation recorded by the Appellate Court in its judgment dated 17.09.2013 (P-2), is reproduced here-under:-

“20. As a sequel to my discussion above, it is held that the prosecution miserably failed to prove its case against the appellant beyond shadow of reasonable doubt. The impugned judgment delivered by the Ld. Trial Court is not sustainable under the provisions of law and as such, the same are set aside. The appellant is acquitted of the charges framed against him. He is also discharged from the bail bonds and surety bonds. Amount of fine, if paid is ordered to be refunded to the appellant. Lower Court file be sent back along with copy of this judgment and appeal file be consigned to the Record Room.”

5. Thus, counsel for the petitioner argues that once the petitioner was dismissed from the service on account of the conviction by the Criminal Court/Trial Court, on account of his earning acquittal from the Appellate Court i.e. the Court of learned Addl. Sessions Judge, Ludhiana, in Criminal Appeal No.14 of 16.02.2012, vide judgment dated 17.09.2013 (P-2), he was required to be reinstated immediately in service.



6. Counsel for the petitioner further submits that after earning of acquittal, representation was submitted by the petitioner to respondent No.1 by pointing out therein that his appeal has been allowed by the Appellate Court, and thus, prayed for his reinstatement in service with all consequential benefits. Copy of the representation dated 13.10.2015 is annexed with present writ petition as Annexure P-3.

7. While referring to another representation submitted vide Diary No.22178/D, dated 16.11.2015 (Annexure P-4), counsel for the petitioner submits that therein also, petitioner repeated his request for reinstatement. However, no decision has even been taken thereon so far by the respondents/authorities concerned. Thereafter, lastly on 22.03.2024, petitioner submitted one legal notice dated 22.03.2024 (Annexure P-5) to respondent No.1, wherein, reference of earlier representations dated 13.10.2015 (P-3) and 16.11.2015 (P-4) was also made.

8. Counsel submits that no decision has been taken by the respondents either on the representations or even on the legal notice submitted by the petitioner.

9. On the other hand, Mr. Aman Dhir, DAG, Punjab, appearing on advance notice, gives assurance that the request for reinstatement and other consequential benefits, as submitted by the petitioner through aforementioned representations and legal notice, would now be considered and decided at the earliest.

10. After hearing the counsel from both the sides, and going through the writ petition as well as the documents appended thereto, I deem it appropriate to dispose of the present writ petition by directing the official



respondents to take a final decision on the legal notice dated 22.03.2024 (P-5) within a period of three months from today, by passing a speaking order, in accordance with law.

If, there is a request for personal hearing of the petitioner, that would also be acceded to and the final order would be communicated to the petitioner thereafter.

With the aforementioned observations and the terms recorded here-above, present writ petition is hereby disposed of.

(SANJAY VASHISTH)
JUDGE

July 16, 2024
J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No