

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

113

CWP-19441-2021
Date of decision: 06.03.2024

JAGIR SINGH
Vs.
STATE OF PUNJAB AND OTHERS
...PETITIONER
...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Amit Dhawan, Advocate and
Mr. Sahil Bansal, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of order dated 16.06.2021 (Annexure P-3) whereby he has been suspended without subsistence allowance.
2. The petitioner joined Punjab Home Guard in 1991 and he was promoted to the post of Platoon Commander w.e.f. 27.04.2016. He came to be embroiled in FIR No. 15 dated 16.06.2021 under Section 7 of Prevention of Corruption Act, 1988 as amended by the PC (Amendment) Act, 2018 registered at Police Station Vigilance Bureau Range Jalandhar. He was arrested and thereafter released on bail vide order dated 13.07.2021 passed by trial Court. The petitioner by impugned order was suspended without subsistence allowance. The order dated 16.06.2021 (Annexure P-3) is reproduced as below:

“As per the letter No. 1572-81 dated 10.06.2021 issued by Inspector, Vigilance Bureau Unit, Jalandhar a case FIR No. 15 dated 16.06.2021 has been registered under Section 7 of Prevention of Corruption Act against Platoon commander Jagir Singh No. 1515, Posted at Police Station Shahkot with the allegations of receipt of Rs. 5000/- as illegal gratification,

therefore, he is suspended from duty with immediate effect without subsistence allowance.”

3. The petitioner claims that he was suspended without subsistence allowance whereas an employee who is suspended is entitled to subsistence allowance.
4. Mr. Aman Dhir, DAG, Punjab submits that petitioner has actually been dismissed from service because there is no provision of suspension and payment of subsistence allowance.
5. From the perusal of impugned order, it is evident that petitioner has been suspended without subsistence allowance. As per respondent, the petitioner was not suspended whereas he has been dismissed from service. The stand of the State is contrary to impugned order.
6. As per respondent, there is no provision to put an employee of Punjab Home Guard under suspension and pay subsistence allowance. Be that as it may, there is a stark contradiction in the stand of the State and impugned order, thus, this Court finds it appropriate to set aside impugned order with a direction to respondents to pass a fresh order after granting opportunity of hearing to the petitioner in accordance with law. The needful shall be done within 3 months from today.
8. The setting aside of impugned order shall not automatically create rights in favour of the petitioner and he would be entitled to service benefits as per law in force.
9. Disposed of.

06.03.2024
anju

[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No