



223 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-7766-2018

Date of decision : 08.07.2024

SUDESH PAL

....Petitioner

Versus

STATE OF HARYANA AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sunil K. Nehra, Advocate for the petitioner.

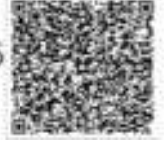
Mr. Ashish Yadav, Addl. Advocate General, Haryana.

PANKAJ JAIN, J. (ORAL)

By way of present writ petition, the petitioner has laid challenge to the inquiry report dated 23rd of August, 2006 (Annexure P-1) and all subsequent orders of the punishment passed by Authorities including the final order passed by the Additional Chief Secretary to the Government of Haryana on mercy appeal filed by the petitioner whereby the punishment of dismissal awarded by the Punishing Authority as well as the Appellate Authority stands altered to stoppage of 5 annual increments with cumulative effect.

2. The petitioner who was working as Constable to the Police Department was booked in FIR No.202 dated 18th of June, 2005 for offences punishable under Sections 354/506/323 IPC. Inquiry was initiated.

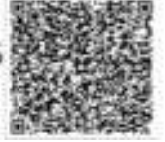
2024.PHHC.083935



However, on request made by the petitioner that the same be kept in abeyance till the conclusion of the trial, the same was put in suspension. In the criminal trial, the petitioner earned acquittal after the witnesses opted not to support the prosecution. After the petitioner earned acquittal, the departmental inquiry was continued which led to the conclusion of guilt against the petitioner. The precise charge against the petitioner reads as under:

“I Hari Ram, H.P.S, Deputy Superintendent of Police, Kurukshetra level charge against you Constable Sudesh Kumar No 391/Kaithal, 858/Kurukshetra that when you were residing at Luxmi Garden Yamunanagar on rental basis then on 15.05.2005 at around 8 pm at night then you under the influence of liquor put your hands on the shirt of kamla's daughter and tore her shirt and used abusive language and threatened that he will have Kamla's daughters kidnapped, and killed. When Kamla made hue and cry then you went inside your house and started using abusive language. Kamla called the police over phone. Police got your medical examination conducted in which you were found to be under the influence of liquor and slurring of speech was found. In relation to which a case No. 202 dated 18.06.2005 under sections 354/323/506 of IPC was got registered at Police station Farakpur and on evidence leading to arrest you were arrested and produced before the court on 18.06.2005. On which you were suspended vide order No. 55798-804 by Superintendent of Police. Which you have hurt the image of the police department being a member of the disciplinary force and being under the influence of liquor teased Kamla Devi and her daughter staying at Luxmi Garden Yamunanagar. Your act is such which deserves to be criticized and punishable. Which is against the rules of the Police.”

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3. Based upon the inquiry report, the Punishing Authority ordered the petitioner to be dismissed from services. In appeal and revision preferred by the petitioner the authorities maintained the punishment. However, in mercy appeal filed by the petitioner before the Government, Additional Chief Secretary found the punishment disproportionate and converted the same to that of stoppage of 5 annual increments with cumulative effect on the principal of “No Work No Pay”.

4. Counsel for the petitioner while assailing the impugned order submits that after the petitioner earned acquittal, the Authorities ought to have reinstated the petitioner with all consequential benefits including the backwages and had no authority to impose major punishments i.e. of dismissal or of stoppage of 5 annual increments with cumulative effect as now it stands in the present case.

5. Counsel has tried to take refuge under the provisions as contained under Rule 16.3 of the Punjab Police Rules. However, on being asked specifically as to whether parallel inquiry was initiated before acquittal or not, Mr. Nehra very fairly admits that the inquiry was initiated by the department on its own and the same was put in abeyance on the request made by the petitioner as the inquiry as well as the criminal trial were based upon the same set of facts.

6. In view of above, this Court does not find that the provisions as contained under Rule 16.3 can be read to enure any benefit to the petitioner.

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So far as the quantum of punishment is concerned, the same is within the exclusive realm of the employer and the judicial review is possible only where the quantum can be said to be grossly disproportionate to the charges levelled.

7. Keeping in view the charges for which the petitioner is proceeded against by the department and the punishment of stoppage of 5 annual increments with cumulative effect as imposed by the final Authority, this Court does not find any reason to interfere in the present writ petition. Consequently, the same is dismissed.

July 08, 2024			(Pankaj Jain)
Dpr			Judge
	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No