

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

130

CWP-28710-2024

Date of Decision : 23.10.2024

EX. Head Consrble (PR) JAGDISH SINGH PETITIONER

V/S

STATE OF PUNJAB AND ORS

.... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

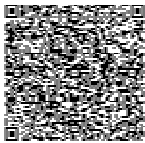
Present : Mr.N.S.Sodhi, Advocate and
Mr. Kamaldip Singh Sidhu, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 01.09.2023 (Annexure P-11) whereby the Director General of Police has turned down his claim seeking reinstatement.

2. This Court considering the fact that the petitioner has been released on probation in terms of provisions of The Probation Offenders Act, 1958 (for short '1958 Act') vide order dated 26.04.2023 (Annexure P-10) directed the respondents to reconsider his case. It is apt to notice here that the petitioner was dismissed from service on account of registration of FIR No.28 dated 24.05.2012 under Sections 223, 224, and 225 of IPC. He was dismissed without compliance of mandate of Article 311 of Constitution of India. He claims that there were two accused in the aforesaid FIR and respondent has ordered to compulsorily retire



co-accused, however, the petitioner has been dismissed from service, even though, both were held guilty by the Appellate Court and granted benefit of probation. Section 12 of 1958 Act comes to rescue of the petitioner. Rule 16.3 read with Rule 16.37 of Punjab Police Rules, 1934 (for short ‘1934 Rules’) also needs to be considered.

- 3. Notice of motion.
- 4. Mr. Aman Dhir, DAG, Punjab, accepts notice on behalf of respondent-State and waives service.
- 5. On being confronted with the impugned order, Mr. Dhir expressed his inability to controvert the fact that the said order is a non-speaking order and the competent authority has failed to consider factual and legal position.
- 6. It is a settled proposition of law that every quasi-judicial authority is bound to pass a speaking order especially when it is amenable to jurisdiction of higher courts. The respondent has passed impugned order without considering factual and legal position. The said order needs to be set aside and accordingly set aside. The respondent is directed to pass a fresh order after considering applicability of Section 12 of 1958 Act, Rule 16.3 as well as 16.37 of 1934 Rules. Let the needful be done within three months from today.
- 7. Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

23.10.2024
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No