



CWP-1442-2024

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

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CWP-1442-2024

Date of decision: 16.10.2024

SI/LR HARVINDER SINGH

....PETITIONER

Vs.

STATE OF PUNJAB AND ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Anandeshwar Gautam, 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 show cause notice dated 23.11.2023 (Annexure P-7), whereby respondent has called upon the petitioner to show cause as to why he should not be dismissed from service.

2. The petitioner on 26.06.1972 joined Punjab Police as Constable. His name was approved for List C-II on 12.06.2002 and he was promoted as Head Constable w.e.f. 27.05.2003. He was further promoted as ASI (Local Rank) in 2012 and granted Local Rank of Sub Inspector w.e.f. 23.09.2021. He was promoted as Officiating ASI w.e.f. 17.12.2021 by order dated 17.12.2021 passed by DGP, Punjab.

3. An FIR No.6 dated 11.01.2022 under Sections 419, 420, 464, 465, 467, 468, 471 and 120B of IPC 1860 and later on added offences under Section 201 of IPC and under Sections 7A and 13 of P.C. Act at Police Station Sector 3 (North), UT Chandigarh came to be registered against many police officers



including petitioner. He surrendered before Trial Court on 22.05.2022 and was granted concession of regular bail by learned Additional Sessions Judge, Chandigarh vide order dated 03.08.2022. The respondent vide order dated 23.01.2022 initiated departmental enquiry against him. The said enquiry was initiated on account of registration of FIR and absence from duty. He was placed under suspension and thereafter reinstated. The respondent has completed inquiry and vide show cause notice dated 23.11.2023 called upon him to show cause as to why he should not be dismissed from service.

4. Mr. Anandeshwar Gautam, learned counsel submits that petitioner has been falsely implicated in the FIR and he has unblemished record of 30 years. The departmental proceedings are entirely based upon criminal proceedings and in the absence of findings returned by Judicial authority, it is unfair and unjustified on the part of departmental authorities to record findings and particularly form an opinion to dismiss him from service. The case of the petitioner is squarely covered by judgment of Supreme Court in '*Capt. M. Paul Anthony Vs. Bharat Gold Mines Limited & another*' 1999 (3) SCC 679.

5. Learned State counsel submits that departmental proceedings and criminal proceedings are independent and Court cannot stop departmental proceedings on the ground that criminal proceedings have not concluded.

6. I have heard the arguments of both sides and with the able assistance of learned counsels perused the record.

7. It is a settled proposition of law that an employee may be subjected to departmental as well as criminal proceedings like under taxation laws an assessee is simultaneously subjected to departmental as well as criminal proceedings. The Court cannot stall departmental proceedings on the ground of pendency of criminal proceedings and vice versa.



8. The petitioner is an officer of Punjab Police and he is governed by Punjab Police Act, 2008 read with Punjab Police Rules, 1934 (for short '1934 Rules'). As per Rule 16.2 of 1934 Rules, a police officer may be dismissed from service, if he is guilty of gravest misconduct or continued misconduct proving incorrigibility and complete unfitness for police service. While passing an order of dismissal, the authorities are bound to consider length of service as well as claim to pension of the officer. As per Sub-Rule (2) of Rule 16.2, if an enrolled police officer is convicted and sentenced to imprisonment on a criminal charge, he is liable to be dismissed. The proviso to said sub-rule provides that if conviction is set aside in appeal or revision, the appointing authority is supposed to review question of dismissal of the officer. Rule 16.3 provides that if an officer has been tried and acquitted by criminal Court, he shall not be punished departmentally on the same charge or on a different charge upon the evidence cited in the criminal case whether actually led or not. Rules 16.2 and 16.3 of Punjab Police Rules are reproduced as below:

*“16.2. **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. (3) When a police officer is convicted judicially and dismissed or dismissed as a result of a departmental enquiry, in consequence of corrupt practices, the conviction and dismissal and its cause shall be published in the Police Gazette. In other cases of dismissal when it is desired to ensure that the officer dismissed shall not be re-employed elsewhere, a full descriptive roll, with particulars of the punishments, shall be sent for publication in the Police Gazette.”

9. The petitioner by impugned notice has been called upon to show cause as to why he should not be punished. He has right to file reply to said notice. In case any adverse order is passed, he has right to file appeal before Appellate Authority and thereafter he can file revision as permissible by 1934 Rules. He has further remedy to file writ petition before this Court against adverse orders passed by Disciplinary and Appellate Authorities.

10. In the wake of availability of multiple remedies, this Court at this stage, does not find it appropriate to stay proceedings pending before Departmental Authorities especially when police report under Section 173(2) Cr.P.C. has already been filed and criminal proceedings are going on.

11. Dismissed.

16.10.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No