



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

116

CWP-1173-2025
Date of Decision: 17.01.2025

Jagraj Singh

.....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Lovish Arora, 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 orders dated 21.10.2019, 11.03.2020, 26.12.2022 and 29.04.2024 (Annexures P-1, P-2, P-3 and P-5) whereby his two years service has been ordered to be forfeited and the appeals have been dismissed.

2. The petitioner joined Punjab Police as Constable and retired as Assistant Sub Inspector on 31.05.2020. An FIR No.83 dated 17.05.2015 under Sections 304-A, 279, 427, 506, 323 IPC came to be registered against him at Police Station Dharamkot. He was subjected to departmental proceedings besides criminal proceedings arising out of aforesaid FIR. In the departmental proceedings, the Senior Superintendent of Police, Moga vide order dated 21.10.2019 awarded him punishment of forfeiture of two years service. The



“I have very carefully seen the reply given by him and considered the same with which I am not in agreement with but even then by taking lenient view, by reducing the punishment proposed in the notice, only his two (02) years earned service for increments is ordered to be forfeited permanently which shall have the effect on his annual increments. A copy of this order may be given to him free of cost.”

3. He unsuccessfully preferred appeal as well as revision before higher authorities. He came to be acquitted vide judgment dated 07.12.2022 passed by Judicial Magistrate Ist Class, Moga. The operative portion of the judgment dated 07.12.2022 is reproduced as below:-

“I have perused the case file and I have also heard the learned APP for the State and the learned counsel for the accused. The star witness of the prosecution is the complainant PW2 SI Rashpal Singh and eye witness PW3 HC Sukhdev Singh. In their cross examination, both the above stated witnesses admitted that on the date of alleged occurrence, accused ASI Jugraj Singh was posted and present at PS Sadar Zira, Ferozpur. Moreover, both the witnesses have admitted that accused ASI Jugraj Singh never assaulted them. Thereafter, PW5 IO Asi Satnam Singh was examined by the prosecution. In his cross examination, PW5 stated that on the date of the alleged occurrence, he was posted as incharge PP Focal point, PS City Moga and he was orally instructed to proceed with the investigation of the present case. No document has been placed on file by the prosecution in order to justify the duty of the IO at the place of alleged occurrence when the same fell within the jurisdiction of PS City Moga and the IO was incharge of PP Focal Point, Moga. The IO also admitted in his cross examination that at the time of his visit to the spot of



occurrence, accused was not present there and he had not seen him on the said date. He also admitted that during his investigation, he did not verify from SHO or any other employee of PS Sadar Zira with regard to the presence of accused at the said police station on the date of alleged occurrence. The IO also admitted that he did not record statement of any doctor, SMO, CMO or any employee of the mortuary of CH Moga with regard to taking of dead bodies by accused ASI Jugraj Singh. The IO also admitted that the ruqa in the present case was prepared at 12 PM, however a perusal of the same placed on file reveals that it was prepared at 02:25 PM. The IO also admitted that in the site plan Ex.PW5/D, there were no points marked as A,B, C and D as stated in the remarks column at the foot note of the said site plan. Moreover, as per IO the site plan was prepared in writing of another pen and same bore the signatures of the IO in another pen. Also, the IO did not join any independent witness during the course of his investigation. Furthermore, PW6 ASI Mohan Lal was examined by the prosecution itself and during his examination in chief, the said witness stated that accused ASI Jugraj Singh was having belt no. 599/FZR and was posted in perwai unit and remained so till 26.08.2015. As per the prosecution, the offence by the accused in the present case was committed on 18.05.2015 at about 1:00 PM. In defence evidence DW1 SCt Gurpreet Singh 1579/FZR brought on record the attendance register pertaining to PS Sadar Zira on the date of alleged occurrence as per which accused ASI Jugraj Singh was present at PS Sadar Zira on the date c alleged occurrence from 8 AM to 6 PM. No evidence has been placed file by the prosecution vide which it could justify that accused ASI Jug Singh left the police station at any point of time during the alleged date occurrence so as to commit the offences for



which charge has been framed against him. As such, plea of alibi taken by the accused stands established and proved. Further, none of the prosecution witnesses have proved the guilt of the accused beyond the shadow of reasonable doubt. Thus, I find merit in the contention raised by learned defence counsel that the prosecution has miserably failed to prove its case beyond reasonable doubt. So, in compelling circumstances the accused is entitled to be acquitted on the benefit of doubt and he is set free from the charges framed against him. Accordingly. I hereby acquit the accused from the charges framed against him. Case property, if any, be disposed of after the period of appeal or revision, if any. Personal bonds already furnished are kept intact for the purposes of Section 437 A of Cr.P.C. File, after needful, be consigned to the record room Moga.”

4. Mr. Lovish Arora, learned counsel for the petitioner submits that as per Rule 16.3 of Punjab Police Rules, 1934 (in short '1934 Rules'), the impugned order of punishment needs to be set aside because petitioner has been honourably acquitted by trial Court.

5. Notice of motion.

6. Mr. Aman Dhir, DAG, Punjab, who on advance notice is present in Court, accepts notice on behalf of respondents and waives service.

7. With the consent of learned counsel for the parties, the case is taken up for final disposal.

8. Mr. Dhir, on being pointed out findings of trial Court, expressed his inability to controvert the fact that petitioner was honourably acquitted and was not accorded benefit of technicalities. However, he submits that standard of proof in the departmental proceedings is different from criminal proceedings.

Thus, impugned orders are justified.



9. I have heard the arguments and perused the record.
10. The entire dispute revolves around interpretation of Rule 16.3 of 1934 Rules, thus, it would be inevitable to look at aforesaid Rule which is reproduced as below:

“16.3. Action following on a judicial acquittal. –

(1) When a Police Officer has been tried and acquitted by a criminal court he shall be 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, unless –

(a) the criminal charge has failed on technical grounds; or

(b) in the opinion of the Court or of the Superintendent of Police, the prosecution witnesses have been won over; or

(c) the Court has held in its judgment that an offence was actually committed and that suspicion rests upon the police officer concerned; or

(d) the evidence cited in the criminal case discloses facts unconnected with the charge before the court which justify departmental proceedings on a different charge; or

(e) additional evidence admissible under rule 16.25(1) in departmental proceedings is available.

(2) Departmental proceedings admissible under sub-rule (1) may be instituted against Lower Subordinates by the order of the Superintendent of Police but may be taken against Upper Subordinates only with the sanction of Deputy Inspector General of Police, and a police officer against whom such action is admissible shall not be deemed to have been honorably acquitted for the purpose of rule 7.3 of the Civil Services Rules (Punjab), Volume I, Part I.”



11. The acquittal from criminal proceedings does not automatically entitle immunity from departmental action. A police officer may be subjected to departmental punishment despite acquittal in criminal proceedings as per exceptions carved out in Rule 16.3 of 1934 Rules. If acquittal is not based upon exceptions carved out in Rule 16.3 of 1934 Rules, a police officer is entitled to immunity from departmental action.

12. In the case in hand, the petitioner was honourably acquitted. The departmental punishment was awarded on the same set of allegations and evidence. There is nothing on record to hold that case of respondent falls in any exception carved out in Rule 16.3 of the 1934 Rules. Thus, there is no ground to sustain departmental punishment.

13. In the wake of above discussion and findings, this Court is of the considered opinion that impugned orders are not sustainable and deserve to be set aside and accordingly set aside. The writ petition stands allowed.

The respondent is further directed to take care of pension and retiral dues of the petitioner as he has already been acquitted by Criminal Court and departmental proceedings stand quashed by this Court. It is made clear that arrears would not carry interest, if released within 2 months from today.

17.01.2025
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(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	Yes