



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

105

CWP-13168-1999 (O & M)
Date of Decision: 15.01.2025

Sukhjinder Singh

.....Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Puneet Jindal, Sr. Advocate,
with Mr. Arshnoor Singh Chugh, Advocate, for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition filed under Articles 226 and 227 of the Constitution of India is seeking setting aside of order dated 25.02.1999 (Annexure P-8) whereby he was dismissed from service and order dated 17.05.1999 (Annexure P-9) whereby his appeal was dismissed.

2. The petitioner passed the matriculation examination from Central Board of Higher Education, New Delhi in September' 1980. He came to be appointed as Constable vide order No.110/81 and joined service on 19.10.1981. The respondent vide order dated 15.10.1982 dismissed him from service invoking Rule 12.21 of the Punjab Police Rules, 1934 (in short '1934 Rules'). He was dismissed from service forming an opinion that he has submitted a forged matriculation certificate in support of his educational qualification. He successfully preferred civil suit. It is apt to notice here that an FIR was also



registered against him and he was discharged by Trial Court vide judgment dated 08.09.1986 holding that no *prima facie* case is made out against him. The Civil Court vide judgment dated 28.03.1989 decreed his suit and set aside order of termination from service. Pursuant to orders of Civil Court, he was permitted to rejoin on 13.08.1989. The respondent initiated fresh inquiry wherein petitioner was again declared guilty and vide order dated 10.09.1990 dismissed from service. It was again held that he has used a forged certificate. He unsuccessfully preferred appeal before Appellate Authority. He again filed civil suit which was decreed. He vide judgment dated 07.06.1993 was held entitled to be reinstated. The respondent preferred an appeal before Appellate Court against order of Civil Court. The said appeal came to be dismissed vide order dated 18.12.1996. The respondent unsuccessfully preferred RSA-2014-1997 before this Court. Pursuant to orders of Courts, he came to be reinstated w.e.f. 11.03.1998. Despite specific findings of learned Additional District Judge, Jalandhar, the respondent, on the same set of material and same allegations, initiated fresh inquiry and passed impugned order whereby he came to be dismissed from service. The findings recorded by learned Additional District Judge which are relevant for the adjudication of instant petition are reproduced as below:-

“11. Therefore, I affirm the findings of the court below in respect of issues framed in the suit. However, the court below when accepted the suit of the plaintiff ought to have given his relief in respect of arrears of pay etc. The plaintiff has been deprived of that relief to which he is legally entitled. Therefore, in addition to the relief granted by the court below, I also grant him relief of arrears of pay etc. as claimed in the suit. There is no force in the appeal



and the same is dismissed with the above modification in the impugned judgement and decree. However, this order will not be deemed as order restraining the competent authority/disciplinary authority to hold fresh enquiry, if it is so advised in respect of the matter not covered in the previous enquiry. There is no order as to costs. Decree sheet be prepared. File be consigned to record room.”

3. In view of aforesaid findings of learned Additional District Judge, Jalandhar, the respondent was inhibited to initiate fresh inquiry on the basis of same material and allegations. The fresh inquiry could be initiated in respect of the material not covered in the previous inquiry. Despite aforesaid findings, fresh inquiry was initiated and petitioner was dismissed from service vide impugned order dated 25.02.1999.

4. Mr. Puneet Jindal, Sr. Advocate, counsel appearing for the petitioner submits that during the pendency of instant petition, petitioner has attained age of superannuation. He should be deemed to be in service from October' 1981 to February' 1999. The impugned order was in the teeth of orders passed by Appellate Court. The foundation of impugned order was same as previous orders passed by respondent whereby petitioner was dismissed from service. The act of respondent has caused irreparable loss to him. He is entitled to pension alongwith arrears.

5. *Per contra*, Mr. Dhir submits that petitioner has actually worked on three occasions and his total period of service comes to three years. An employee is not entitled to pension for serving three years. The said period was probation period and he had never completed probation period. Pension and other benefits are available to a regular employee.



position emerging from record is that the petitioner on all three occasions was dismissed from service on the allegation that he had submitted matriculation certificate of a Board which was not recognized by competent authority. In the first round of litigation, he was dismissed without conducting inquiry and in the second round of litigation, he was dismissed after conducting inquiry as contemplated by Punjab Police Rules, 1934. It is undisputed that he had studied in a particular school and only allegation is that the Board from which he obtained matriculation certificate was not recognized by competent authority. In the second round of litigation, though Civil Court granted liberty to initiate fresh inquiry, however, Appellate Court vide judgment dated 18.12.1996 categorically held that Disciplinary Authority may hold fresh inquiry if it is so advised in respect of the matter not covered in the previous inquiry. The previous inquiry was confined to allegation of submission of forged matriculation certificate. The fresh inquiry was also based upon same set of material and allegations. Thus, fresh inquiry could not be conducted without modification of judgment dated 18.12.1996 or prior approval of the said Court. The respondent in defiance of orders of Appellate Court, initiated fresh inquiry and declared the petitioner guilty. The action of respondent was bad in the eye of law and contrary to judgment of Appellate Court. It is apt to mention here that judgment dated 18.12.1996 passed by learned Additional District Judge, Jalandhar stands upheld by this Court in RSA-2014-1997 decided on 04.11.1997. It is apposite to notice that fresh inquiry was initiated after dismissal of RSA by this Court.

7. In the wake of above discussion and findings, this Court is of the considered opinion that impugned orders are bad in the eye of law.



and circumstances should be granted. The petitioner had actually worked for three years and that too on probation. He is claiming that he should be deemed to be in service from his date of joining to date of passing of impugned order. He was time to time dismissed from service and there was no stay granted by competent Courts. In the absence of stay, it cannot be concluded that he was actually in service but he has certainly suffered on account of protracted litigation. He cannot be extended the benefit of pension and other pensionary benefits but deserves reasonable amount of compensation as there was lapse on the part of State and delay in adjudication has taken place on account of multiple reasons. He is not at fault.

Considering the facts and circumstances, this Court finds it appropriate to direct the respondent to pay a sum of Rs.7.5 lakhs to the petitioner towards full and final payment. The needful shall be done within three months from today. If the payment is not made within 3 months from today, it will carry interest @7.5% per annum.

9. Writ petition stands disposed of in aforesaid terms.
10. Pending application, if any, shall also stands disposed of.

15.01.2025
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
Yes