



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

CWP-16471-2004

Date of Decision: 09.12.2025

Pardeep and Another

...Petitioners

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. D.S. Patwalia, Senior Advocate with
Ms. Rishu Bajaj, Advocate
for the petitioners.

Mr. Ravi Partap Singh, DAG, Haryana.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of orders dated 31.12.2003, 01.03.2004, 01.10.2004 and 04.10.2004.

2. The petitioners joined Haryana Police Force as Constable during 1990-1992. In December' 2003, three undertrial prisoners escaped from the custody of a Police Team headed by one Sub Inspector. The team comprised petitioners besides other Police Officials. An FIR No.319 dated 24.12.2003 under Sections 222, 223, 224 and 225 of IPC was registered against members of Police party. The petitioners were arrested. They were released on bail on 02.03.2004. The moment FIR was registered, the respondent dismissed petitioners from service without holding departmental inquiry as contemplated by Rule 16.24 of Punjab Police Rules, 1934 (as applicable to State of Haryana) (in short 'PPR') read with Article 311(2) of the Constitution of India. The Disciplinary

Authority while passing dismissal order dated 31.12.2003 noticed that it was not practicable to hold regular departmental inquiry against the petitioners. In view of prevailing facts and circumstances, it would not be practicable and possible to hold regular departmental inquiry. It has been established that petitioners have committed gravest act of misconduct. They have helped undertrials in escaping from Police custody.

The petitioners preferred appeals which came to be dismissed vide order dated 01.03.2004 passed by Appellate Authority. They further preferred revisions which came to be dismissed vide orders dated 01.10.2004 and 04.10.2004 by Director General of Police.

3. Learned Senior counsel representing the petitioners submits that Disciplinary Authority without recording reasons dispensed with regular departmental inquiry. Clause (b) of second proviso to Article 311(2) of Constitution of India was mechanically invoked. The action of respondent was in gross violation of judgment of Hon'ble Supreme Court in ***Union of India v. Tulsi Ram Patel, (1985) 3 SCC 398***. The Courts have repeatedly held that departmental inquiry should not be dispensed with mechanically. The Authorities are bound to record reasons which should be justified. The petitioners were acquitted by trial Court for committing offence of connivance punishable under Section 222 of IPC though were convicted for committing offence of negligence punishable under Section 223 of IPC. They preferred appeal which came to be disposed of vide judgment dated 08.04.2015 passed by learned Sessions Judge, Jhajjar. The Appellate Court has ordered to release them on probation.

4. *Per contra*, learned State counsel submits that petitioners were guilty of escape of three dreaded undertrial prisoners. The petitioners helped hardened criminals in escaping from Police custody. The trial Court found them guilty of negligence and awarded punishment under Section 223 of IPC. Case of petitioners falls under Rules 16.36 and 16.37 of PPR. The Disciplinary Authority dispensed with inquiry because petitioners were guilty of helping undertrials in escaping from Police custody. There was no possibility of witnesses to come forward and make statement against the petitioners.

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. From the perusal of record especially order dated 31.12.2003 passed by Disciplinary Authority, it is evident that regular departmental inquiry was dispensed with on the ground that it is not practicable to hold regular departmental inquiry in view of prevailing facts and circumstances. The relevant extracts of impugned order dated 31.12.2003 read as:

“Keeping in view the gravest acts committed by Constable Rajesh No. 377/JJR and Constable Pardeep No. 36/JJR under the garb of Police, it is not practicable to hold regular department enquiry against them. Taking into consideration the prevailing facts and circumstances it would not be practicable and possible to hold regular departmental enquiry against them. SHO/City bahadurgarh, DSP/ Bahadurgarh and ASP/Jhajjar are satisfied that Constable Rajesh No. 377/JJR and Constable Pardeep No.635/JJR have committed this gravest act. The undersigned is also satisfied to dispense with the regular departmental enquiry.”

7. The reasons assigned by respondent for dispensing with inquiry do not seem to be convincing. The respondent could place petitioners under suspension and thereafter conduct inquiry. The petitioners were arrested and made to face criminal proceedings. If the criminal proceedings could be conducted, it was practicable to hold regular departmental inquiry. Case of petitioner seems to be covered by judgments of Supreme Court as well as this Court.

8. There is another aspect of the matter which needs to be examined. The petitioners were dismissed from service in December' 2003. A period of 22 years has passed away and, at this stage, it would not be appropriate to ask the department to hold inquiry.

9. Mr. D.S. Patwalia, Senior Advocate submits that this court cannot examine the matter on merits once comes to the conclusion that inquiry was dispensed with without reasons. Plea of petitioner is rejected because of hereinafter discussed reasons.

10. The petitioners were convicted by trial Court under Section 223 of IPC though acquittal under Section 222 of IPC. A period of 22 years from the date of their dismissal has passed away. In these circumstances, this Court finds it appropriate to examine the matter in totality. The petitioners are not guilty of connivance as per judgment of trial Court, however, they are guilty of negligence. They have been punished under Section 223 of IPC. Rules 16.2 and 16.3 of PPR deal with dismissal from service. These Rules are general in nature. Rules 16.36 and 16.37 of PPR deal with punishment in case of escape of a prisoner from the custody of Police Official. Rules 16.36 and 16.37 of PPR read

as:

“16.36. Action when negligence is established.- If the enquiry establishes negligence or connivance in an escape, thereby creating a presumption that an offence under sections 221, 222 or 223, Indian Penal Code, has been committed, the police officer concerned shall be prosecuted criminally, unless the District Magistrate on a reference by the Superintendent of Police decides, for reasons to be recorded, that the case shall be dealt with departmentally. If the enquiry establishes a breach of discipline or misconduct not amounting to an offence under any of the sections of the Indian Penal Code mentioned above, the case shall ordinarily be dealt with departmentally. The criminal prosecution under this rule of an upper subordinate shall not be undertaken without the sanction of the Deputy Inspector-General of Police.

16.37. Dismissal the normal punishment in escape cases.- (1) Dismissal shall normally follow a judicial or departmental conviction for negligence resulting in the escape of the prisoner and may, with the approval of Deputy Inspector-General, follow judicial discharge or acquittal under the conditions described in rule 16.3. Where extenuating circumstances exist, and a punishment other than dismissal is awarded, the file shall be submitted to the Deputy Inspector-General for review of the orders passed. The Deputy Inspector-General, will, however, pass no orders until the period of appeal has expired. If an appeal is lodged, the punishment will be examined in the ordinary way, if there is no appeal, the Deputy Inspector-General will proceed to review the punishment if he considers it necessary. If the Deputy Inspector-General decides to enhance the punishment awarded, an appeal will then lie against such order to the Inspector-General. If an appeal does not lie against the original punishment awarded, the Deputy Inspector-General will proceed to review the case as soon as he receives it.

(2) The authority to retain in the service an enrolled

police officer, who has been convicted of neglect either judicially or departmentally in connection with an escape, shall rest with the Deputy Inspector-General, or, in the case of Inspectors, with the Inspector-General. If extenuating circumstances exist, they shall be clearly stated and application made to or through the Deputy Inspector-General to award any authorized punishment other than dismissal.”

11. From the perusal of aforesaid Rules, it is evident that dismissal from service normally follow a judicial or departmental conviction for negligence resulting in the escape of the prisoner. With the approval of Deputy Inspector General of Police (**DIG**), in case of judicial discharge or acquittal under the conditions described in Rule 16.3 of PPR, dismissal may follow.

12. In the case in hand, the judgment of conviction was passed on 09.08.2012 and Appellate Court partially modified said judgment on 08.04.2015. Undisputedly, the petitioners have been found guilty of negligence in criminal proceedings. As per Rule 16.37 of PPR, they are liable to be dismissed from service. Had they been acquitted, the matter could be re-examined, in the light of Rule 16.3 of PPR read with Rule 16.37 of PPR, however, they have been held guilty for negligence and their case is squarely covered by Rule 16.37 of PPR. As per Rule 16.37, dismissal may follow in case of departmental or judicial conviction. The trial Court has examined evidence on record and petitioners were given full opportunity to put forth their stand. An Officer may be dismissed as soon as he is convicted for negligence resulting in escape of the prisoner. The petitioners are convicted for negligence by trial Court, thus, there is no need to conduct inquiry.

13. In the wake of above discussion and findings, this Court is of the considered opinion that instant petition deserves to be dismissed and accordingly ***dismissed.***

14. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

09.12.2025
Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No