



**131+262 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-8866-2025

Date of Decision: 03.11.2025

Dilbag Singh

...Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Ms. R.K. Grewal, Advocate,
Ms. Amandeep Kaur, Advocate and
Mr. Deepanshu Meena, 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 10.08.2019 (Annexure P-2), 27.05.2020 (Annexure P-3), 11.04.2022 (Annexure P-4) and 24.07.2024 (Annexure P-5).

2. The petitioner joined Punjab Police Force as Special Police Officer (SPO) on 15.11.1989. He was allotted Constabulary Number. He was promoted from time to time and in 2019 was holding Local Rank of Assistant Sub Inspector (ASI). An offence of robbery came to be committed by two police officials namely LR/ASI Rajpreet Singh and LR/ASI Joginder Singh and their accomplice Surinder Singh, resident of Pathankot. They robbed Father Anthony, resident of Partap Pura, Jalandhar. They concealed looted money. The offence of robbery was committed on 29.03.2019. The petitioner was called by Investigating

Officer and his statement dated 11.04.2019 was recorded. He disclosed that he had given his car to LR/ASI Joginder Singh on 29.03.2019. Car was supplied on the asking of LR/ASI Joginder Singh who had disclosed that his car has met with an accident, thus, he needed car. The petitioner was unaware about the misuse of car. The respondent registered FIR No.01 dated 12.04.2019 under Sections 406, 34, 392 & 120-B of IPC and Section 13(1)(a) read with 13(2) of Prevention of Corruption Act, 1988 at Police Station State Crime, S.A.S. Nagar against aforesaid three persons. The petitioner was not named in the FIR. LR/ASI Joginder Singh was arrested on 01.05.2019. In his disclosure statement, he disclosed that he had taken car from petitioner. On the basis of said statement, petitioner was implicated in the alleged offence. He was arrested and thereafter sent to judicial custody. The respondent initiated departmental proceedings against the petitioner and other Police Officials while petitioner was in judicial custody. The respondent sought approval from Special Judge, Mohali to continue departmental proceedings while petitioner was in judicial custody. The petitioner was supplied copy of chargesheet, however, he refused to participate in the proceedings taking plea that he would participate after his release from judicial custody. The respondent formed an opinion that as petitioner is not participating in the departmental proceedings, thus, order should be passed under Clause (b) of second proviso to Article 311(2) of Constitution of India. Senior Superintendent of Police (SSP) vide order dated 10.08.2019 ordered to dismiss him from service. The order was passed invoking Clause (b) of second proviso to Article 311(2). The petitioner unsuccessfully preferred appeal as well as revision before Higher Authorities.

3. Learned counsel representing the petitioner submits that petitioner was in custody still respondent initiated departmental proceedings. Concededly, the petitioner requested respondent to defer proceedings till he was in judicial custody. The respondent after serving chargesheet was duty bound to conclude departmental proceedings which may be *ex parte*. There was no occasion to dispense with departmental inquiry. The respondent wrongly and contrarily to Rule 16.24(2) of Punjab Police Rules, 1934 (in short 'PPR') as well as Clause (b) of second proviso to Article 311(2) dispensed with inquiry.

4. *Per contra*, learned State counsel submits that petitioner did not participate in the departmental inquiry despite permission granted by trial Court, thus, department was bound to dispense with inquiry. It was petitioner who opted not to participate in the departmental proceedings, thus, cannot take advantage of his ill deeds.

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

6. Rule 16.24 of PPR prescribes procedure in departmental inquiry. The said Rule reads as:

"16.24. Procedure in departmental enquiries. –

(1) The following procedure shall be followed in departmental enquiries –

(i) The police officer accused of misconduct shall be brought before an officer empowered to punish him, or such superior officer as the Superintendent may direct to conduct the enquiry. That officer shall record and read out to the accused officer a statement summarizing the alleged misconduct in such a way as to give full notice of the circumstances in regard to which evidence is to be recorded. A copy of the statement will also be supplied to the accused officer free of charge.

(ii) If the accused police officer at this stage admits the misconduct alleged against him, the officer conducting the enquiry may proceed forthwith to frame a charge, record the accused officer's plea and any statement he may wish to make in extenuation and to record a final order, if it is within his power to do so, or a finding to be forwarded to an officer empowered to decide the case. When the allegations are such as can form the basis of a criminal charge, the Superintendent shall decide at this stage, whether the accused shall be tried departmentally first and judicially thereafter.

(iii) If the accused police officer does not admit the misconduct, the officer conducting the enquiry shall proceed to record such evidence, oral and documentary, in proof of the accusation, as is available and necessary to support the charge. Whenever possible, witnesses shall be examined direct, and in the presence of the accused, who shall be given opportunity to take notes of their statements and cross-examine them. The officer conducting the enquiry is empowered, however, to bring on to the record the statement of any witness whose presence cannot, in the opinion of such officer, be procured without undue delay and expense or inconvenience, if he considers such statement necessary, and provided that it has been recorded and attested by a police officer superior in rank to the accused officer or by a magistrate, and is signed by the person making it. This statement shall also be read out to the accused officer and he shall be given an opportunity to take notes. The accused shall be bound to answer any questions which the enquiring officer may see fit to put to him with a view to elucidating the facts referred to in statements or documents brought on the record as herein provided.

(iv) When the evidence in support of the allegations has been recorded the enquiring officer shall, (a) if he considers that such allegations are not substantiated, either discharge the accused himself, if he is empowered to

punish him, or recommend his discharge to the Superintendent, or other officer, who may be so empowered, or (b) proceed to frame a formal charge or charges in writing, explain them to the accused officer and call upon him to answer them.

(v) The accused officer shall be required to state the defence witnesses whom he wishes to call and may be given time, in no case exceeding forty-eight hours, to prepare a list of such witnesses, together with a summary of the facts as to which they will testify. The enquiring officer shall be empowered to refuse to hear any witnesses whose evidence he considers will be irrelevant or unnecessary in regard to the specific charge framed. He shall record the statements of those defence witnesses whom he decides to admit in the presence of the accused, who shall be allowed to address questions to them, the answers to which shall be recorded; provided that the enquiring officer may cause to be recorded by any other police officer superior in rank to the accused the statement of any such witness whose presence cannot be secured without undue delay or inconvenience, and may bring such statement on to the record. The accused may file documentary evidence and may for this purpose be allowed access to such files and papers, except such as form part of the record of the confidential office of the Superintendent of Police, as the enquiring officer deems fit. The supply of copies of documents to the accused shall be subject to the ordinary rules regarding copying fees.

(vi) At the conclusion of the defence evidence, or, if the enquiring officer so directs, at any earlier stage following the framing of a charge, the accused shall be required to state his own answer to the charge. He may be permitted to file a written statement and may be given time, not exceeding one week, for its preparation, but shall be bound to make an oral statement in answer to all questions which the enquiring officer may see fit to put to him, arising out of the charge, the recorded evidence, or

his own written statement.

(vii) The enquiring officer shall proceed to pass orders of acquittal or punishment, if empowered to do so, or to forward the case with his finding and recommendations to an officer having the necessary powers. Whenever the officer passing the orders of punishment proposes to take into considerations the adverse entries on the previous record of the accused police officer, he shall provide reasonable opportunity to the defaulter to defend himself; and a copy or at least a gist of those entries shall be conveyed to the defaulter and he shall be asked to give such explanation as he may deem fit. The explanation furnished by the defaulter shall be taken into account by the officer before passing orders in the case.

(viii) Nothing in the foregoing rule shall debar a Superintendent of Police from making or causing to be made a preliminary investigation into the conduct of a suspected officer. Such an enquiry is not infrequently necessary to ascertain the nature and degree of misconduct which is to be formally enquired into. The suspected police officer may or may not be present at such preliminary enquiry, as ordered by the Superintendent of Police or other Gazetted officer initiating the investigation, but shall not cross-examine witnesses. The file of such a preliminary investigation shall form no part of the formal departmental record, but statements therefrom may be brought to the formal record when the witnesses are no longer available in the circumstances detailed in clause above. All statements recorded during a preliminary investigation should be signed by the person making them and attested by the officer recording them.

(ix) No order of dismissal or reduction in rank shall be passed by an officer empowered to dismiss a police officer or reduce him in rank until that officer has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him, provided

that this shall not apply-

(a) where a police officer is dismissed or reduced in rank on the ground of conduct which led to his conviction on a criminal charge; or

(b) where the officer empowered to dismiss him or reduce him in rank is satisfied that for some reasons to be recorded by that officer in writing, it is not reasonably practicable to give to that police officer an opportunity of showing cause.

Before an order of dismissal or reduction in rank is passed, the officer to be punished shall be produced before the officer empowered to punish him, and shall be informed of the charges proved against him, and called upon to show cause why an order of dismissal or reduction in rank should not be passed. Any representation that he may make shall be recorded, shall form part of the record of the case, and shall be taken into consideration by the officer empowered punish him before the final order is passed:

Provided that if, owing to the complicated nature of the case or other sufficient reason to be recorded, the officer empowered to impose the punishment considers this procedure inappropriate, he may inform the officer to be punished in writing of the charges proved against him, and call upon him to show cause in writing why an order of dismissal or reduction in rank should not be passed. Any written representation received shall be placed on the record of the case and taken into consideration before the final order is passed.

(2) (i) Notwithstanding anything contained in sub-rule (1) a Superintendent of Police or any officer of rank higher than Superintendent, may institute, of cause to be instituted, ex parte proceedings in any case in which he is satisfied that the defaulter cannot be found or that inspite of notice to attend the defaulter is deliberately evading service or refusing to attend without due cause

(ii) The procedure in such ex parte proceedings

shall, as far as possible confirm to the procedure laid down in sub-rule (1):

Provided that the defaulter shall be deemed-

(a) not to have admitted the allegations contained in the summary of misconduct, and

(b) to have entered a plea of not guilty to the charge:

Provided further that the defaulter, if he subsequently appears at any stage during the course of the proceedings shall not be entitled to claim de novo proceedings or to recall for cross-examination any witness whose evidence has already been recorded. He shall, however, be fully informed of the evidence which has been led against him and shall be permitted to take notes thereof. He shall also be furnished with a copy of the summary of misconduct and of the charge or charges framed.”

7. From the perusal of Rule 16.24(2) of PPR, it is evident that department may proceed *ex parte* in case despite notice defaulter refuses to attend proceedings. The Inquiry Officer is required to comply with procedure laid down in sub-rule (1) in case of *ex parte* proceedings. Proviso to said Rule further provides that there would be presumption that delinquent has not admitted allegations contained in the summary of misconduct and he has pleaded not guilty.

8. Second proviso to Article 311 (2) permits departmental authorities to dispense with inquiry. The respondent though incorrectly mentioned, however, has invoked Clause (b) of second proviso to Article 311(2). The said Clause may be invoked if it is not practically possible to hold inquiry. It means decision to dispense with inquiry may be taken even after initiating inquiry. It is not necessary that Disciplinary Authority at the first instance should record that it is not practically possible to hold

inquiry. The Inquiry Officer during the course of inquiry may find that it is not possible to hold inquiry.

9. The service of the petitioner was governed by Punjab Police Rules. Chapter 16 categorically deals with departmental proceedings. Rule 16.24(2) of PPR specifically provides for *ex parte* proceedings where delinquent refuses to attend proceedings without due cause.

10. In the case in hand, petitioner was served chargesheet, however, he refused to participate in the departmental proceedings taking plea that he would join proceedings the moment he is released on bail. Indubitably, he was in judicial custody at the time of holding inquiry. The petitioner was implicated in a serious offence of robbery. From the perusal of impugned orders as well as other documents on record, it is evident that petitioner was not part of robbery, however, he was implicated on the ground that he supplied his car to accused who committed offence of robbery. The petitioner himself prior to registration of FIR disclosed this fact to the investigating officer. The main accused also did not name petitioner except to disclose that he demanded car from the petitioner. There was nothing *prima facie* on record that petitioner was aware of robbery.

11. Considering the aforestated factual and legal position, this Court finds it appropriate to set aside impugned orders dated 10.08.2019 (Annexure P-2), 27.05.2020 (Annexure P-3), 11.04.2022 (Annexure P-4) and 24.07.2024 (Annexure P-5) and direct respondent to conduct inquiry in terms of Rule 16.24 of PPR. The petitioner shall not be deemed to be reinstated on account of setting aside of impugned orders. The respondent shall conclude inquiry and pass an appropriate order within six months

from today. The order passed by Disciplinary Authority would determine fate of the petitioner. If inquiry is not concluded within six months from today, the petitioner shall be deemed to be reinstated till the date of passing order by Disciplinary Authority.

12. It is made clear that any observation made heretofore shall not be treated as expression of opinion of this Court on merit and Disciplinary Authority as well as trial Court would decide the matter on merit without being influenced by observations of this Court.

13. ***Allowed*** in the above terms.

(JAGMOHAN BANSAL)
JUDGE

03.11.2025
Prince Chawla

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