IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

****

530-1 **CWP-16647-2006**
Date of Decision: 29.08.2025

AZAD SINGH ...Petitioner

Vs.

STATE OF HARYANA AND ANR. …Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Samrat Malik, Advocate for the petitioner

Mr. Suneel Ranga, DAG Haryana

***

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Article 226/227 of the Constitution of India is seeking setting aside of order dated 05.09.2006 whereby DGP has recalled order of his predecessor.

2. The petitioner joined Haryana Police Force as Constable. He from time to time was promoted to higher rank. He came to be implicated in an FIR on the ground that he has illegally detained one lady namely Smt. Kelo Devi w/o Jaggi in connection with FIR No.21 dated 10.02.1995 under Section 380 IPC. The respondent conducted regular departmental enquiry and held him guilty. He was issued show cause notice proposing punishment of forfeiture of increments. He was awarded punishment of forfeiture of 6 increments with permanent effect vide order dated 04.09.1996. He unsuccessfully preferred appeal before appellate authority as well as revision before DGP. The order in revision

DEEPAK BISSYAN
2025.08.29 18:41
I attest to the accuracy and
integrity of this document

dated 08.06.1999 was passed by DGP. The petitioner came to be acquitted by trial Court. On the basis of his acquittal, he made a representation to DGP to reconsider his punishment. DGP vide order dated 03.01.2002 recalled orders of punishment. The successor of DGP formed an opinion that his predecessor beyond his jurisdiction has recalled order of punishment. He got approval from Home Department and issued show cause notice dated 09.05.2006 calling upon the petitioner to show cause as to why order dated 03.01.2002 passed by previous DGP should not be recalled. The petitioner filed reply to notice and DGP vide impugned order dated 05.09.2006 recalled order dated 03.01.2002 passed by his predecessor.

3. Learned counsel for the petitioner submits that petitioner, in terms of Rule 16.3 of Punjab Police Rules, 1934 (as applicable to State of Haryana) (in short "**PPR**"), was entitled to file petition before authorities after his acquittal. The DGP did not review his order whereas passed fresh order in terms of Rule 16.3 of PPR. There is nothing in the order dated 03.01.2022 disclosing that order was passed while exercising power of review under Rule 16.28 of PPR.

4. *Per contr*a, Mr. Suneel Ranga, DAG Haryana, submits that DGP has no power to review his orders. In case of orders of DGP, power of review as per Rule 16.28 of PPR can be exercised by State Government. The same authority cannot review its order.

5. Mr. Ranga expressed his inability to controvert that

DEEPAK BISSYAN
2025.08.29 18:41
I attest to the accuracy and
integrity of this document

petitioner was subjected to punishment on account of his involvement in a criminal case and he was acquitted in the said case, however, he submits that petitioner was acquitted because complainant turned hostile. The petitioner was not entitled to benefit of Rule 16.3 of PPR.

6. I have heard learned counsel for the parties and perused the record of the case.

7. This Court has adverted to Scope of Rule 16.2 and 16.3 of PPR in ***"Bala Singh Vs. State of Haryana and Ors."*** **CWP-18777-2023** decided on 02.04.2025**.** It has been held that authorities are duty bound to reconsider departmental punishment in case of acquittal of delinquent in criminal proceedings. The relevant extracts of aforesaid judgment read as:-

> *"7. Sub-Rule (2) of Rule 16.2 of Punjab Police Rules, 1934 (as applicable to State of Haryana) (for short PPR) provides that an enrolled police officer sentenced judicially to rigorous imprisonment exceeding one month unless sentence is quashed on appeal or revision, be dismissed from service. The Rule further provides that final departmental order in such cases shall be postponed till the appeal or revision proceedings have been decided or until the period allotted for filing appeal has elapsed and appeal/revision is not instituted.*
>
> *8. Rule 16.2 of PPR for the ready reference is reproduced as below:*
>
> > *" 16.2. Dismissal. (1) Dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect or 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*

DEEPAK BISSYAN
2025.08.29 18:41
I attest to the accuracy and
integrity of this document

offender and his claim to pension.

Explanation.- For the purposes of sub-rule (1), the following shall, inter alia, be regarded as gravest acts of misconduct in respect of a police officer, facing disciplinary action:

(i) indulging in spying or smuggling activities;

(ii) disrupting the means of transport or of communication;

(iii) damaging public property;

(iv) causing indiscipline amongst fellow policemen;

(v) promoting feeling of enmity or hatred between different classes of citizens of India on grounds of religion, race, caste, community or language;

(vi) going on strike or mass casual leave or resorting to mass abstentions;

(vii) spreading disaffection against the Government; and

(viii) causing riots and the like.

(2) An enrolled police officer sentenced judicially to rigorous imprisonment exceeding one month or to any other punishment not less severe, shall, if such sentence is not quashed on appeal or revision, be dismissed. An enrolled police officer sentenced by a criminal court to a punishment of fine or simple imprisonment, or both, or to rigorous imprisonment not exceeding one month, or who, having been proclaimed under Section 87 of the Code of Criminal Procedure fails to appear within the statutory period of thirty days may be dismissed or otherwise dealt with at the discretion of the officer empowered to appoint him. Final departmental orders in such cases shall be postponed until the appeal or revision proceedings have been decided, or until the period allowed for filing an appeal has lapsed without appellate or revisionary

DEEPAK BISSYAN
2025.08.29 18:41
I attest to the accuracy and
integrity of this document

proceedings having been instituted. Departmental punishments under this rule shall be awarded in accordance with the powers conferred by rule 16/1.

(3) When a police officer is convicted judicially and dismissed, or dismissed as a result of a departmental inquiry, 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 description roll, with particulars of the punishments, shall be sent for publication in the Police Gazette."

9. Rule 16.3 of PPR provides that if a police officer is 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. Rule 16.3 of PPR 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 Neutral 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

DEEPAK BISSYAN
2025.08.29 18:41
I attest to the accuracy and
integrity of this document

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."

10. 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 PPR. If acquittal is not based upon exceptions carved out in Rule 16.3 of PPR, a police officer is entitled to immunity from departmental action.

11. As per proviso to sub-rule (2) of Rule 16.2 of PPR (as applicable to State of Punjab), it is quite evident that in case of setting aside of conviction, the officer empowered to appoint is duty bound to review case of the police officer. Rule 16.2(2) of PPR as applicable to Punjab is reproduced as under:-

"(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 <u>that in case the conviction of an enrolled</u>

DEEPAK BISSYAN
2025.08.29 18:41
I attest to the accuracy and
integrity of this document

> *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.*
>
> *[Emphasis supplied].*
>
> *12. As per Rule 16.3(2) as applicable to State of Haryana, a Police Officer shall not be dismissed if his sentence is quashed on appeal or revision. The Rule further provides that final departmental orders shall be postponed until the appeal or revision proceedings have been decided or until the period allotted for filing an appeal has lapsed without appellate or revisionary proceedings having been instituted.*
>
> *In the case in hand, petitioner was convicted, thus, he was liable to be dismissed from service, however, his conviction stands set aside by this Court. The department could keep its proceedings in abeyance till conclusion of the criminal proceedings, however, department as per its wisdom found it appropriate to conclude department proceedings without waiting for the outcome of criminal proceedings. As department has concluded proceedings without waiting outcome of criminal proceedings and the petitioner stands acquitted by this Court, the matter needs to be reconsidered in terms of Rule 16.3 of PPR.*
>
> *13. In the wake of above discussion and quoted rules, this Court finds it appropriate to remand the matter to disciplinary authority to reconsider the case of the petitioner in the light of judgment of acquittal passed by this Court as well as Rule 16.2 read with Rule 16.3 of PPR. The needful shall be done within six months from today."*

8. As per Rule 16.2 read with 16.3 of PPR, the authorities were bound to reconsider case of petitioner in view of his acquittal in criminal case. The authorities could reject his claim on the grounds enumerated in clauses (a) to (e) of Rule 16.3(1) of PPR. Acceptance or rejection of

DEEPAK BISSYAN
2025.08.29 18:41
I attest to the accuracy and
integrity of this document

claim is one aspect and existence of power is another aspect. In view of Rule 16.3, the departmental authorities are empowered to reconsider case of an officer in case of acquittal. Despite acquittal, departmental punishment may be upheld, however, it cannot be concluded that authorities do not possess power to re-consider departmental punishment after acquittal in criminal case.

9. It is legally correct that no police officer including DGP has power to review its own order. As per Rule 16.28 of PPR, power of review vests in higher authority. Normally power of review is exercised by same authority, however, Rule 16.28 of PPR vests power of review in higher authority. Accordingly, DGP has no power to review his order. He can review order passed by his subordinates.

10. In the wake of above discussion and findings, this Court is of the considered opinion that DGP rightly considered petitioner's petition after his acquittal in criminal case. He was not powerless. The instant petition deserves to be allowed and accordingly allowed. The impugned orders are hereby set aside.

11. Pending application(s), if any stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

29.08.2025
Deepak DPA

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

DEEPAK BISSYAN
2025.08.29 18:41
I attest to the accuracy and
integrity of this document