



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

**CWP No.9774 of 2005(O&M)
Date of Decision: 12.03.2025**

Amarjit Kaur

....Petitioner

VS.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. R.D.Bawa, Advocate
Mr. Samuel Gill, Advocate
Mr. Randhir Bawa, 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 order dated 11.02.1991 (Annexure P-1) whereby her husband was dismissed from service.

2. The petitioner is widow of Ajaib Singh who joined Punjab Police as a Constable on 03.08.1976. He was posted with 75th Punjab Armed Police Battalion. The respondent by impugned order without conducting enquiry as contemplated by Rule 16.24 of the Punjab Police Rules, 1934 (in short "PPR") read with Article 311 (2) of the Constitution of India dismissed him from service.

3. Mr. R.D.Bawa, Advocate submits that impugned order is liable to be set aside on the ground that the same was passed on 11.02.1991 and at



that point of time petitioner's husband was in custody. There were all possibilities that impugned order was never communicated to her husband, thus, he could not file appeal before Appellate Authority. He was killed by Punjab Police on 07.08.1992. The petitioner was in dark. She was not aware of whereabouts of her husband. In 1998, she approached Human Rights Commission and during the course of proceedings before Human Rights Commission, she came to know that her husband has been killed by Punjab Police. He was wrongly implicated in two FIRs. He was discharged in one FIR and trial of second FIR abated on account of death of her husband. Her husband was wrongly implicated which is evident from the fact that he was in custody when the alleged offence was committed. The Supreme Court time and again has held that enquiry contemplated under Article 311 of the Constitution of India cannot be dispensed with mechanically. The disciplinary authority is duty bound to record reasons. The secret reports relied upon by the respondents are mere reiteration of first report.

4. *Per contra*, Mr. Aman Dhir, DAG, Punjab submits that petitioner's husband was having connection with extremists. A number of secret reports were prepared noticing that the aforesaid employee was having connection with extremists. He from time to time remained absent from duty. A detailed report with respect to his act and conduct was prepared by Commandant, Punjab Armed Police, Jalandhar. In the said report, it was noticed that he was awarded punishment on multiple occasions and he was a habitual absentee. In the said report, reasons were recorded for dispensing with enquiry contemplated by Article 311 (2) of Constitution of India.



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

6. From the perusal of record, it is evident that petitioner's husband was dismissed from service on 11.02.1991. He was in custody at that point of time, however, was released on bail on 04.04.1991. As per petitioner, her husband was killed on 07.08.1992. There was gap of more than one year between the date of his release and death. As he was dismissed from service, there was no question to work, thus, there was no question of lack of knowledge of impugned order. He did not prefer appeal against order of his dismissal from service meaning thereby he accepted order passed by disciplinary authority. The petitioner preferred instant petition before this Court in 2005 i.e. after the expiry of more than 14 years from the date of passing of the impugned order. The argument of petitioner that she was pursuing her remedy before Human Rights Commission is irrelevant because Human Rights Commission has no authority to set aside order of dismissal from service. It is further apt to notice that petitioner's husband was killed by Punjab Police in an encounter and this fact was duly recorded in the judgment dated 27.11.1992 (Annexure P-3).

7. There is another aspect of the matter. The respondent before passing the impugned order prepared a detailed report with respect to act and conduct of petitioner's husband. In the report, it was considered that he is habitual absentee and having connection with extremists. His continuation in service shall be a security risk and not in public interest. There were possibilities of leakage of sensitive and secret documents. The claim of the petitioner may be justified in the normal circumstances, however, the State

of Punjab during the period in question was facing militancy, thus, it was inevitable and indispensable not to retain persons of doubtful integrity because they were dangerous not only to public at large but also to their colleagues and seniors.

8. A Coordinate Bench of this Court in **RSA No.385 of 1993** titled as **‘State of Punjab and others Vs. Dalbir Singh through his LR’s’**, relying upon judgment of Supreme Court in **‘Union Territory, Chandigarh and others Vs. Mohinder Singh’**, (1997) 3 SCC 68 has upheld dispensation of inquiry under Article 311(2) of the Constitution of India, in view of peculiar situation prevailing in the State of Punjab during the period in question. The case of petitioner is squarely covered by judgment of this Court in **Dalbir Singh (supra)** as well as Supreme Court in **Mohinder Singh (Supra)**.

9. In the wake of above discussion and findings, the present petition deserves to be dismissed and accordingly dismissed.

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

12.03.2025
paramjit

(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	