



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

**CWP No.11198-2025
Date of Decision: 25.04.2025**

Virender Singh

....Petitioner

vs.

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Sajjan Singh, Advocate
for the petitioner
Mr. Raman Sharma, Addl. A.G., Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of:

- (i) order dated 04.04.2013 (Annexure P-1) whereby he was dismissed from service;
- (ii) order dated 13.01.2014 (Annexure P-2) whereby his appeal was dismissed; and
- (iii) order dated 17.12.2024 (Annexure P-6) whereby his mercy appeal was rejected.

2. The petitioner joined Haryana Police Force on 13.06.1988. An FIR No.354 dated 03.04.2013, under Sections 354 and 510 of IPC came to be registered against him at Police Station City Karnal. The trial Court vide judgment dated 25.03.2016, awarded him punishment of sentence of one year, however, he was acquitted by the Appellate Court vide judgment dated 30.10.2024.



3. In the interregnum, the petitioner was dismissed from service vide order dated 04.04.2013, passed by Superintendent of Police, Karnal. He unsuccessfully preferred appeal before the Appellate Authority.

4. Counsel for the petitioner submits that petitioner was dismissed from service without holding enquiry as required by Rule 16.24 of the Punjab Police Rules, 1934 as applicable to State of Haryana (for short “PPR”) read with Article 311 of the Constitution of India. He was dismissed on the sole ground of registration of FIR against him. He was convicted by Trial Court, however, Appellate Court i.e. Court of learned Additional Sessions Judge, Karnal acquitted him vide judgment dated 30.10.2024. The respondent was duty bound to re-consider his reinstatement, however, respondent vide impugned orders has rejected his claim.

5. Notice of motion.

6. Mr. Raman Sharma, Addl.A.G.Haryana who on advance notice is present in Court, accepts notice.

7. With the consent of both sides, the petition is taken up for final disposal today itself.

8. Mr. Raman Sharma, Addl. A.G.Haryana submits that as FIR was registered against the petitioner, he cannot be reinstated. He expressed his inability to controvert afore-stated factual position.

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

10. Sub-Rule (2) of Rule 16.2 of 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. 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 Incurability and complete unfitness for police service. In making such an award regard shall be had to the length of service of the 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 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.”

11. 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 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.”

12. 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.

13. 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 that in case the conviction of an enrolled 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]

14. As per Rule 16.2(2) of PPR 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.

15. In the case in hand, petitioner was convicted, thus, he was liable to be dismissed from service, however, his conviction stands set aside by Appellate Court. The matter needs to be reconsidered in terms of Rule 16.3 of PPR.

16. There is another facet of the matter which needs to be examined. The petitioner was dismissed without conducting inquiry. From the perusal of record, it is evident beyond the pale of doubt that he was dismissed from service without conducting inquiry as contemplated by Rule 16.24 of PPR read with Article 311 of the Constitution of India. As per



Clause (b) of second proviso to Article 311 (2) of the Constitution of India, inquiry may be dispensed with (i) where person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or (ii) where the competent authority finds that it is not reasonably practicable to hold such inquiry; or (iii) where President or the Governor is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry. For the ready reference, Article 311(2) of the Constitution of India is reproduced hereinbelow:-

“311 (2)- No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed:

Provided further that this clause shall not apply-

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

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the



security of the State it is not expedient to hold such inquiry.”

17. A Constitutional Bench in **Union of India v. Tulsiram Patel, (1985) 3 SCC 398**, has observed that while invoking the rigor of Clause (b) of second-proviso to Article 311(2), if disciplinary authority failed to record any reason as to why it is not practicable to hold inquiry, such an order is void and unconstitutional. The relevant extracts of the judgment read as:

“133. The second condition necessary for the valid application of clause (b) of the second proviso is that the disciplinary authority should record in writing its reason for its satisfaction that it was not reasonably practicable to hold the inquiry contemplated by Article 311(2). This is a constitutional obligation and if such reason is not recorded in writing, the order dispensing with the inquiry and the order of penalty following thereupon would both be void and unconstitutional.”

18. In the case in hand, while dispensing with departmental inquiry, the disciplinary authority vide order dated 04.04.2013 (Annexure P-1) has observed as under:-

“And whereas, the undersigned is fully satisfied that it is not reasonably practicable to hold a regular enquiry for the reasons that:

(a) it would be highly prejudicial to the general interest and discipline of the police force.

(b) it is apprehended that the delinquent official would browbeat the witnesses and create various impediments in holding of the enquiry as well as the trial of the criminal case, even to the extent of jeopardizing the life of the complainant and other witnesses.

(c) the defaulter would not co-operate or associate himself with the proceedings of the enquiry and.
(d) it would generate further unrest amount the public at large.”

19. The reasons advanced by Superintendent of Police, Karnal for dispensing with inquiry are not plausible reasons. The respondent can dispense with inquiry if actually it is not practicable to hold the inquiry. Mere writing that it is not practicable to hold inquiry is not compliance of mandate of either Constitution of India or Rule 16.24 of PPR. The respondent instead of straight away dismissing the petitioner could put him under suspension and thereafter conduct inquiry.

20. In the wake of above discussion and findings, the impugned orders are hereby set aside and petitioner is ordered to be reinstated. In case of reinstatement, he shall not be entitled to back wages till the date of acquittal by the Appellate Court, however, he shall be entitled to other notional service benefits.

21. Needful shall be done within three months from today.

(JAGMOHAN BANSAL)
JUDGE

25.04.2025
paramjit

Whether speaking/reasoned:	Yes	No
Whether reportable:	Yes	No