

2025:PHHC:010130



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH.

209

Date of Decision: 22.01.2025.

(1) CWP-12243-2017 (O&M)

VIKRAM SINGH

... Petitioner(s)

Versus

UNION OF INDIA AND OTHERS

... Respondent(s)

(2) CWP-12253-2017 (O&M)

MAHINDER SINGH

... Petitioner(s)

Versus

UNION OF INDIA AND OTHERS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

PRESENT: Mr. Dinesh Kumar, Advocate,
for the petitioner.

Mr. Shivoy Dhir, Senior Panel Counsel,
for the respondents/Union of India.

2025:PHHC:010130



VINOD S. BHARDWAJ, J (ORAL)

Both these writ petitions are being decided by a common order with the consent of the parties.

2 Brief facts are, however, being referred to from CWP-12243-2017 titled as ‘Vikram Singh Vs. Union of India and others.’

3 Challenge in the above writ petition is to the order No.1/12014/1/ITBP/43rd Bn./Estt. 2,/Summary Force Court/CD/Vikram Singh/2014-686-92 dated 19.11.2014 (Annexure P-4), whereby sentence of removal from service was imposed upon the petitioner by the disciplinary authority as well as to the order No.1/12014/1/ITBP/43rd Bn./Estt. 2,/Summary Force Court/CD/Vikram Singh/2015-5500-12 dated 16.04.2015 (Annexure P-7) whereby the Appellate Authority has /substituted the aforesaid sentence by a sentence of compulsory retirement from service, allegedly without assigning any reasons and in violation of principles of natural justice.

4 This court has perused the impugned orders under challenge, with the assistance of the counsel for the parties. The order passed by the disciplinary authority is extracted as under: -

“Whereas No.-040231288 CT/GD Vikram Singh of "F" Coy 43 Bn ITB Police Force has been tried by the undersigned in Summary Force Court from 17.11.2014 to 19.11.2014 for the committing of following offences under ITBPF Act-1992, Section -21(a) Absents himself without leave

2025:PHHC:010130



Section-21(d) Without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty.

And whereas No.-040231288 CT/GD Vikram Singh of "F" Coy 43 Bn ITB Police Force has been held guilty of the above charges in the Summary Force Court and has been awarded the sentence "Removed From the Service."

The period of his suspension w.e.f. 23.09.2014 to 19.11.2014, 58 days "LWP" and period of his absent w.e.f. 19.08.2014 to 21.08.2014 03 days and 23.08.2014 to 30.08.2014, 08 days is treated as EOL for all purposes.

The suspension of above said No.040231288 CT/GD Vikram Singh of "F" Coy 43 Bn ITB Police Force ordered vide this office Order No.1/12014/1/ITBP/Estt-2Suspension/2014-592 dated 23.09.2014 is hereby revoked w.e.f. 19.11.2014 (AN).

*Sd/-19.11.2014
Commandant
43 Bn. ITB Police Force"*

5 Thereafter, on an appeal so preferred before the Appellate Authority viz the Commandant 43rd Battalion ITB Police Force passed the following order on 16.04.2015: -

"C/GD Virkam Singh 'F' Company of this regiment No.040231288 was removed from the service on account of his indiscipline and the Summary Court Force proceedings

2025:PHHC:010130



from 17.04.2011 to 19.11.2014 vide this office order No.686-92 dated 19.11.2014 and in compliance of the order No.1261 dated 23.02.2015 of Deputy Inspector General of Police at regional headquarter is compulsory retired from service.

2. Therefore, regiment No.040231288 C/GD Vikram Singh "F" Company is hereby compulsory retired w.e.f. 19.11.2014 (A/N) and pay and all allowances admissible on this place are hereby stopped.

*Sd/- 16.4.15
Commandant
43rd Bn. ITB Police.”*

6 By referring to the above, counsel for the petitioner contends that the aforesaid order clearly show that the same are non-speaking and that there has been no discussion on the arguments raised or contentions advanced by the petitioner and as to what were the circumstances that persuaded the disciplinary authority as well as the appellate authority to pass the orders under challenge.

7 Learned counsel appearing on behalf of the respondents, on the other hand, contends that the petitioner had pleaded guilty to the charges for which he was prosecuted. On being confronted, counsel for the respondent is not in a position to refute that there is no discussion about the submissions advanced on behalf of the petitioner or mitigating circumstances justifying concession/leniency to be shown to him or against the punishment to be awarded and also as regards the compelling circumstances under which the alleged violation occurred.

2025:PHHC:010130



8 This Court has held in the matter of *Sham Lal and others Vs. State of Punjab and others, reported as (2013) 14 SCC 393*, that when the law stipulates passing of a speaking order, it must refer to the contentions that had been advanced by the persons aggrieved and must resort to record the reasons and objective assessment of the contentions, in the light of the applicable rules and regulations, before a final conclusion is drawn.

9 Undoubtedly, the order under challenge do not fulfil the pre-requisites of a reasoned and speaking order. Consequently, both the writ petitions are allowed, without commenting on the merits of the case. The matter is hence remanded to the disciplinary authority to pass a fresh reasoned and a speaking order, after following the due process of law, within a period of 03 months of the date fixed for appearance of the parties. The parties shall appear before the disciplinary authority on 24.02.2025.

January 22, 2025.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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