



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

206+202

Date of Decision: 23.09.2025

1. CWP-21150-2015

KAPTAN SINGH

...Petitioner

Vs.

STATE OF HARYANA & ORS.

...Respondents

2. CWP-16822-2001

MANGE RAM

...Petitioners

Versus

STATE OF HARYANA & ORS.

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. S.K. Redhu, Advocate
for the petitioner (*in CWP-21150-2015*)

Mr. Mayank Sharma, Advocate with
Mr. Satinder Kumar, Advocate
for the petitioner (*in CWP-16822-2001*)

Mr. Ravi Partap Singh, DAG Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. As common issues are involved in the captioned petitions, with the consent of both sides, the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from **CWP-21150-2015**.

2. The petitioner through instant petition under Article 226/227 of the Constitution of India is seeking setting aside of:-

- i. Enquiry report dated 23.02.2009 (Annexure P-4);

- ii. Order dated 02.04.2009 (Annexure P-6) whereby he was dismissed from service;
- iii. Order dated 11.06.2009 (Annexure P-8) whereby his appeal against the dismissal order was rejected;
- iv. Order dated 01.10.2009 (Annexure P-10) whereby his revision was dismissed;
- v. Letter dated 26.09.2011 (Annexure P-14) whereby adverse remarks were conveyed to him;
- vi. Notice dated 14.12.2012 (Annexure P-23) whereby he was issued notice for compulsory retirement;
- vii. Order dated 07.01.2013 (Annexure P-24) whereby he was compulsorily retired; and
- viii. Order dated 11.01.2013 (Annexure P-25) whereby his representation was rejected.

3. The petitioner joined Haryana Police Force as Constable on 31.01.1981. He was willing to join Executive Clerical Cadre (English Branch), thus, as per prescribed procedure, he appeared in the written test. He qualified written test and came to be selected for Clerical Cadre. He was admitted to Clerical Cadre subject to passing type test. Order of admission in Clerical Cadre was passed by DIG, Ambala Range, Ambala. Order dated 30.09.1989 whereby he was admitted to Executive Clerical Cadre is reproduced as below:-

“ORDER

On the basis of written test the names of the following constables are approved for admission the executive clerical cadre (English office) in order of merit obtained by them as given below w.e.f. 29.9.1989 subject to passing type test in English and Hindi within six months.

Sr. No. Name, Rank and No.

- 1. Const. Ram Murti, No. 642/UMB*
- 2. " Dharam Pal Singh, No. 27/KKR*
- 3. " Kaptan Singh, No. 537/KNL*
- 4. " Som Lal, No. 1112/UMB*
- 5 " Jagdish Singh, No. 1784/ UMB*
- 6. " Heera Lal, No. 394/KNL*
- 7. " Azad Singh, No. 1134/KKR*
- 8. " Hukam Chand, No. 1261/KKR*
- 9. Rakesh Kumar, No. 543/KNL*
- 10." Balkar Singh, No. 896/UMB*

Sd-

*Dy. Inspector General of Police,
Ambala Range, Ambala.*

Endst. No. 11747-49/A-3 dated 30.9.89"

4. He was promoted as Officiating Head Constable (English Branch) with special pay of Rs.40/- per month vide order date 11.12.1999 passed by Deputy Inspector General (for short 'DIG') Rohtak Range, Rohtak. He was transferred on mutual consent basis from Rohtak Range to Gurgaon Range where he was promoted as Officiating Assistant Sub Inspector in Clerical Cadre with special pay of Rs.60/- per month w.e.f. 01.03.2006. His order of promotion as Officiating Assistant Sub Inspector was passed by Inspector General of Police (in short 'IGP'), Gurgaon Range, Gurgaon. The respondent initiated departmental enquiry against him. The Inquiry Officer found him guilty of alleged misconduct. He was issued show cause notice proposing dismissal from service. He was awarded punishment of dismissal from service vide order dated 02.04.2009 passed by Superintendent of Police (in short 'SP') Faridabad. He preferred appeal before IGP Faridabad. In the appeal, he specifically pointed out that SP, Faridabad was not competent authority to pass order

of punishment. The Appellate Authority vide order dated 11.06.2009 converted punishment of dismissal from service into stoppage of three increments with permanent effect. Feeling aggrieved from appellate order, he preferred revision before Director General of Police (in short 'DGP') who vide order dated 01.10.2009 dismissed his revision. He filed review before DGP. He filed mercy appeal before Financial Commissioner and Principal Secretary to Government, Home Department, Haryana. He preferred *CWP-5135-2013* assailing orders of punishment. The respondent issued notice dated 14.12.2012 proposing his retirement at the age of 55 years. The said notice was served in terms of Rule 9.18(1)(c) of Punjab Police Rules, 1934 (as applicable to State of Haryana) (in short 'PPR'). He has retired w.e.f. 27.03.2013 in view of notice dated 14.12.2012 and order dated 07.01.2013 passed by SP.

5. Learned counsel for the petitioner submits that order of punishment was passed by SP whereas petitioner was absorbed in Clerical Cadre in terms of orders passed by DIG. He was promoted as Head Constable by DIG. He was further promoted as Assistant Sub Inspector (in short 'ASI') by IGP. For all intents and purposes his appointing authority was DIG, thus, order of punishment could not be passed by SP. A Division Bench of this Court vide judgment dated 25.04.1995 in **CWP-2116-1995** titled as '*Ex HC Nar Singh Vs. State of Haryana and Ors.*', has clearly held that Head Constable of Executive Clerical Cadre cannot be punished by SP because his appointing authority is DIG. In the said case, the petitioner had joined service as Constable in Executive Cadre. He passed written test and came to be absorbed in Clerical Cadre. The order of absorption was passed by DIG. Noticing said fact, this Court

held that order of punishment could not be passed by SP.

6. *Per contra*, learned State counsel submits that as per Rule 12.1 read with Rule 16.1 of PPR, the appointing and punishing authority of officers up to the rank of Sub Inspector is SP. The fact that order of promotion as Head Constable was passed by DIG does not make DIG as appointing/punishing authority. The petitioner was originally appointed as Constable in Executive Cadre, thus, SP continued to remain his appointing authority till the rank of SI.

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

8. From the perusal of record, it is evident that petitioner joined Haryana Police Force as Constable in Executive Cadre. He expressed his willingness to join Executive Clerical Cadre. He participated in the written test. He qualified the test and came to be admitted to Clerical Cadre. The order of admission to Clerical Cadre was passed by DIG. He was promoted as Head Constable and thereafter ASI. His promotion orders were passed by DIG/IG. Mere fact that order of promotion was passed by higher authority did not change appointing authority. As per Rules 12.1 and 16.1 of PPR, appointing authority up to the rank of SI is SP. If a Constable is promoted as Head Constable or a Head Constable is promoted as ASI under the orders of DIG, it does not make DIG as appointing/punishing authority of said Head Constable or ASI. If it is accepted that order of promotion would change appointing/punishing authority, there would be two different authorities for the same rank. A directly appointed Head Constable or ASI or SI would be subjected to punishment by SP whereas a promotee officer would be subjected to

punishment by DIG. Case herein is different. The petitioner was admitted to Clerical Cadre and order of admission to Clerical Cadre was passed by DIG. A Division Bench of this Court in *Nar Singh (supra)* noticing the fact that petitioner was admitted to Executive Clerical Cadre by an order of DIG and further promoted under the orders of DIG, has held that appointing authority of petitioner would be DIG. The relevant extracts of the judgment dated 25.04.1995 are reproduced as below:-

“A look at the orders Annexures P-1 and P-2 shows that the petitioner was admitted to Executive Clerk Cadre by an order of the Inspector General of Police (I.G. Prisons). Ambala Range, Ambala, and he was confirmed on the post of Head Constable of Executive Clerk Cadre by the Deputy Inspector General of Police, Ambala Range, Range. The averments made by the petitioner in paragraphs 3 and 4 of the writ petition have not been denied by the respondents. In fact, they have admitted in para 7 of the reply that the Deputy Inspector General of Police is the only punishing authority for the rank of the petitioner.

Rule 12.1 of the Punjab Police Rules specifies various authorities who are competent to punish employees of the Police Department and this Rule shows that Superintendent of Police is competent to impose a penalty of dismissal of an employee holding the post of Head Constable. However, that rule does not in any manner help the respondents because the petitioner was appointed as Constable Clerk under the order of the Deputy Inspector General of Police and he was appointed as Head Constable as well by an order of the same officer. It is, therefore, reasonable to conclude that the authority which appointed the petitioner to the post of Head Constable Clerk (Executive) was non else than the Deputy Inspector General of Police. There is no dispute between the parties that the petitioner was holding a civil post at the time of

his dismissal from service and the provisions of Article 311 of the Constitution are applicable to his case. Article 311(1) of the Constitution provides that no person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

In view of the above proposition of law, there is no escape from the conclusion that the petitioner, who had been appointed by the Deputy Inspector General of Police, Ambala Range, Ambala could not have been dismissed by the Superintendent of Police and the mere fact that under Rule 12.1, the Superintendent of Police is empowered to punish an official of the rank of Head Constable is of no consequence.”

9. The case of petitioners is squarely covered by aforesaid judgment. This Court is bound to follow judgment of Division Bench of this Court.

10. In the wake of afore-stated facts and findings, the impugned orders of punishment are hereby set aside. The respondent is at liberty to initiate fresh proceedings within six months and conclude within one year from today in accordance with law. If fresh proceedings are not concluded within aforesaid period, the proceedings would abate.

11. In CWP-21150-2015, the petitioner has been made to retire at the age of 55 years. He was made to retire w.e.f. 27.03.2013. The said order was passed in exercise of power conferred by Rule 9.18(1)(c) of PPR. Had the impugned order not been passed, the petitioner would have worked for three more years. He was part of Haryana Police Force and his service was pensionable, thus, he must have received pension which is

50% of last drawn salary. He had not worked during said period.

12. At this stage, this Court does not find it appropriate to set aside order dated 07.01.2013 (Annexure P-24) whereby petitioner was made to retire.

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

(JAGMOHAN BANSAL)
JUDGE

September 23rd, 2025
Deepak DPA

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