



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

CWP-28195-2013

Date of Decision: 03.12.2025

Kuldip Singh

...Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Amit Jaiswal, 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 orders dated 15.01.2010, 24.10.2011, 18.06.2013 and 30.08.2013.

2. The petitioner in 2002 was posted as Head Constable (HC) with Punjab Police. He was implicated in FIR No.360 dated 30.10.2002 registered under Sections 18, 61 and 85 of Narcotic Drugs and Psychotropic Substances, Act, 1985 (for short 'NDPS Act'). There was allegation against him that he was possessing 1 Kg Opium. He was subjected to departmental inquiry. He was found guilty in the departmental inquiry. He was issued show cause notice proposing punishment, however, proceedings were kept pending awaiting decision of trial Court in aforesaid FIR. He was acquitted by trial Court vide judgment dated 12.04.2008. Despite acquittal by trial Court, he was awarded punishment of forfeiture of 05 years regular service for increments vide order dated 15.01.2010 passed by Senior Superintendent

of Police, Ludhiana. He preferred appeal before Deputy Inspector General of Police (**DIG**) which came to be dismissed vide order dated 24.10.2011. He unsuccessfully preferred revision before Inspector General of Police (**IGP**). He further filed mercy petition under Rule 16.32 of Punjab Police Rules, 1934 (for short 'PPR') which came to be dismissed vide order dated 30.08.2013 passed by Under Secretary, Department of Home Affairs and Justice, Punjab.

3. Learned counsel representing the petitioner submits that petitioner was acquitted by trial Court, thus, there was no occasion to inflict impugned punishment. As per Rule 16.3 of PPR, if an Officer is acquitted by trial Court, he cannot be departmentally punished. Case of petitioner does not fall within exceptions carved out under Rule 16.3 of PPR, thus, he was entitled to be exonerated by Disciplinary Authority. There was another Official namely Lal Singh who was also implicated in a criminal case. Allegation against Lal Singh was also of possessing 1 Kg Opium. The trial Court acquitted Lal Singh and respondent reinstated him with back wages and without punishment. There were two material witnesses before trial Court as well as Inquiry Officer. Trial Court considered statement of material witnesses and found contradiction. The Disciplinary Authority was bound by the findings of trial Court.

4. *Per contra*, learned State counsel submits that petitioner was acquitted on technical grounds. He was primarily acquitted on the ground of non-compliance of provisions of Section 50 of NDPS Act.

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

6. The petitioner was acquitted vide judgment dated 12.04.2008

passed by Judge, Special Court, Ludhiana. The relevant extracts of the judgment are reproduced as below:

“Moreover, it is specifically stated by ASI Darshan Singh in his cross examination that personal search of the accused was conducted by the IO at the instance of the DSP on the ground that accused may be having more contraband in his possession and likewise Inspector Mukhwinder Singh stated in his cross examination that he conducted the personal search of the accused at the instance of DSP on the ground as to whether there was any more opium with the accused or not. It rather shows that personal search of the accused was not taken as merely jamatalashi at the time of the formal arrest of the accused but personal search of the accused was taken on the suspicion that accused may be in possession of some more opium and as such, section 50 of the act is fully applicable to the case in hand which has not been properly complied with in this case due to partial officer and it vitiate the recovery.

15. The presence of the DSP at the spot is highly doubtful because DSP is materially discrepant with the other recovery witnesses suggesting that DSP was not present at the spot. ASI Darshan Singh stated in the court that some writing work was done while standing and some writing was done while sitting on chairs, whereas DSP Makiat Singh stated in the court that the writing work was done while sitting in the gypsy. ASI Darshan Singh and Inspector Mukhwinder Singh stated in court that personal search of the accused was also conducted on the direction of the DSP whereas DSP stated in the court that personal search of the accused was not conducted in his presence. Moreover, ASI Darshan Singh stated in court that weighing scale was electronic weighing machine. ASI Darshan Singh stated that opium was weighed three times while standing on the road, whereas Inspector Mukhwinder Singh was stated that opium was weighed while sitting at the spot but DSP stated that opium was

weighed by sitting in the gypsy. Another material discrepancy is that ASI Darshan Singh and Inspector Mukhwinder Singh stated that the seal of the DSP was made of gold but DSP stated that his seal was made of steel. These are material discrepancies and goes to the root of the case and shows that the witnesses were not present at the spot or the accused was not apprehended in the manner suggested by the prosecution case and these discrepancies coupled with defence plea of the accused and non joining of independent witness makes the prosecution case highly doubtful and as such, prosecution have not proved the point of determination in this case.

16. In the light of my above discussion, the prosecution has failed to prove its case against the accused beyond any shadow of reasonable doubt. Therefore, by giving the benefit of doubt accused is acquitted of the charge framed against him. Case property be disposed off according to rules after the expiry of the period of appeal or revision, or its result, if any. File be consigned to the record room.”

7. The petitioner is claiming that there were common witnesses in criminal trial as well as in departmental proceedings. He has been acquitted by trial Court and as per Rule 16.3 of PPR, he could not be punished by Departmental Authorities. For the ready reference, 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.”

8. From the perusal of above quoted Rule, it is evident that there are exceptions where Police Officer may be subjected to departmental punishment despite his acquittal. Acquittal by trial Court is not absolute bar and Authorities are duty bound to examine whether case of delinquent falls within exceptions carved out in aforesaid Rule or not.

9. In the case in hand, the Authorities have formed an opinion that petitioner was acquitted on technical grounds, thus, he was not entitled to benefit of Rule 16.3 of PPR. The petitioner is claiming that he was not acquitted on technical grounds, thus, he is entitled to benefit of Rule 16.3 of PPR.

10. A reading of judgment dated 12.04.2008 passed by Judge, Special Court, Ludhiana reveals that there is no finding that Opium was planted by Investigating Officer of Deputy Superintendent of Police

(DSP). There is no finding that there was no recovery of 1 Kg Opium. The petitioner has been acquitted on the ground that Section 50 of NDPS Act was applicable because there was personal search, however, respondent did not comply with said Section. Trial Court has further recorded that there were material discrepancies in the statement of witnesses. The material discrepancies go to the root of the case and show that witnesses were not present at the spot or the accused was not apprehended in the manner suggested by prosecution. The findings recorded by trial Court disclose that petitioner was acquitted by trial Court on the ground of benefit of doubt. It was a case of non-compliance of mandate of Section 50 of NDPS Act as well as discrepancies in the statements. It cannot be concluded that case of petitioner does not fall within the exceptions carved out under Rule 16.3 of PPR. He was liable to be punished and authorities rightly inflicted punishment.

11. In the wake of aforesaid discussion and findings, the instant petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

03.12.2025
Prince Chawla

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