



**207-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of Decision: 16.09.2025

1. CWP-21845-2017

Nirmal Singh ...Petitioner
Versus

State of Punjab and Others ...Respondents

2. CWP-21846-2017

Nirmal Singh ...Petitioner
Versus

State of Punjab and Others ...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. K.G. Chaudhary, Advocate and
Ms. Sakshi Singh, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

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-21845-2017**.

2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of orders dated 29.09.2010, 19.12.2013 and 29.01.2015 whereby he was awarded punishment of forfeiture of five years' service for increments on permanent basis.

3. The petitioner joined Executive Clerical Cadre, Accounts Branch of the Punjab Police on temporary basis. He came to be implicated in FIR No.264 dated 19.10.2007 registered under Sections 420, 467, 468 and 471 IPC at Police Station City, Barnala alleging embezzlement of funds. The Investigating Officer declared co-accused innocent and presented police report against the petitioner. Special Judge, Barnala vide judgment dated 06.10.2012 acquitted the petitioner. The respondent during the pendency of aforesaid criminal case initiated two departmental inquiries against the petitioner. The Investigating Officer in first inquiry, declared him guilty of embezzlement of funds and in the second inquiry, guilty of absence from duty. The Disciplinary Authority issued him two separate show cause notices. The Disciplinary Authority awarded him punishment of forfeiture of five years approved service for increment on permanent basis with respect to embezzlement of funds. By separate order, punishment of forfeiture of two years approved service for increments on permanent basis was awarded with respect to absence from duty. While passing order dated 12.08.2008 whereby he was awarded punishment of forfeiture of two increments, it was ordered that absence period would be treated as no work no pay period. There was no order with respect to counting of said period towards service benefits. The petitioner unsuccessfully preferred appeals against orders of forfeiture of increments. He preferred mercy petition before State Government with respect to forfeiture of five increments. State Government vide order dated 16.07.2018 reduced punishment from forfeiture of five years' service to three years' service on permanent basis.

4. Learned counsel representing the petitioner submits that

petitioner was absent from duty on account of registration of FIR by respondent. He was arrested in aforesaid FIR, thus, was bound to be absent from duty. For the same offence, he was subjected to two departmental inquiries and awarded two separate punishments. He has been acquitted by trial Court, thus, punishment of forfeiture of increments needs to be set aside.

5. On being confronted with two punishment orders, learned State counsel expressed his inability to controvert that for the same period and same cause of action, the petitioner has been subjected to two punishments, however, he submits that one punishment was awarded on account of embezzlement and another on account of absence from duty.

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

7. From the perusal of record, it is evident that petitioner was arrested and subjected to criminal proceedings at the behest of respondent. He was absent from duty on account of registration of criminal case and thereafter his arrest. He remained absent from duty for 59 days. He has been acquitted by trial Court though extending benefit of doubt. The petitioner could not be subjected to two different punishments for the same offence. The punishment awarded on account of absence from duty vide order dated 12.08.2018 needs to be set aside. Accordingly, order dated 12.08.2008 and all consequential orders with respect to punishment of absence from duty are hereby set aside.

8. The petitioner has been subjected to punishment of forfeiture of three increments on the ground of embezzlement of funds. He was subject to criminal proceedings. He stands acquitted by trial Court. As per

learned counsel for the petitioner, the order of departmental punishment should be set aside because petitioner has been acquitted by trial Court. He is relying upon Rule 16.3 of Punjab Police Rules, 1934 (for short 'PPR'). For the ready reference, the said Rule 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 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 subrule (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.”

9. A perusal of above quoted Rule reveals that department should not initiate proceedings if an Officer is acquitted by trial Court in

the criminal proceedings. There are exceptions carved out in the said Rule. As per exceptions, an Officer may be subjected to departmental proceedings despite being acquitted by trial Court.

10. In the case in hand, the petitioner was subjected to departmental proceedings parallel to criminal proceedings. He was not subjected to departmental proceedings after conclusion of criminal proceedings. Nevertheless, his matter needs to be examined in the light of findings recorded by trial Court. From the perusal of order of trial Court, it is evident that petitioner was not honourably or fully acquitted. The witnesses did not support case of the prosecution. All the Officers who appeared as witnesses attempted to shift burden from one person to another and did not clarify actual position which compelled the trial Court to acquit the petitioner. He was granted benefit of doubt. It is settled proposition of law that standard of proof in case of departmental proceedings and criminal proceedings are different. In case of criminal proceedings, the prosecution has to prove its case beyond reasonable doubt whereas in departmental proceedings yardstick is preponderance of probabilities. The petitioner has been awarded punishment of forfeiture of three increments. The said punishment is not disproportionate to an alleged offence.

11. The petitioner relying upon judgments of this Court passed in ***CWP-19196-2009*** titled as '***Napinder Singh Versus State of Punjab and Others***' and ***CWP No.6447 of 2004*** titled as '***Manohar Lal Versus State of Punjab and Another***' is claiming that absence period should be counted in the service for the purpose of pensionary benefits. In the impugned orders, passed with respect to allegations of embezzlement of

funds, there is nothing with respect to denial of benefit of alleged service period. As respondent has not returned finding with respect to intervening period, no order is warranted.

10. In the wake of above discussion and findings, the writ petition bearing **CWP No.21846 of 2017** deserves to be allowed and accordingly allowed. The order dated 12.08.2008 and all consequential orders are hereby set aside. The writ petition bearing **CWP No.21845 of 2017** is hereby dismissed.

(JAGMOHAN BANSAL)
JUDGE

16.09.2025
Prince Chawla

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