



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

CWP-6358-2016

Date of Decision: 27.11.2025

Harbhajan Singh

...Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. R.K. Arya, 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 24.07.2014 (Annexure P-1) and 10.12.2015 (Annexure P-5).

2. The petitioner claims that he was dismissed from service without conducting inquiry as contemplated by Rule 16.24 of Punjab Police Rules, 1934 (for short 'PPR') read with Article 311(2) of the Constitution of India. There was no ground to dispense with inquiry. There was further no compliance of Rule 16.24(1)(vii) of PPR. He was not involved in any criminal case. He was having 24 years' service to his credit. The respondent did not consider his length of service as well as entitlement to pension while passing impugned order.

3. *Per contra*, learned State counsel submits that petitioner was a habitual absentee. The authorities under unavoidable circumstances, decided to dispense with inquiry. The petitioner availed his right to

appeal, thus, there was compliance of principles of natural justice.

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

5. 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.”

6. 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.”

7. In the case in hand, while dispensing with departmental inquiry, the disciplinary authority vide order dated 24.07.2014 (Annexure P-1) has observed as under:-

“I am further satisfied that under these circumstances it is not reasonably practicable to hold an enquiry in the matter provided under rule 16.24 of the Punjab Police Rules, 1934.”

8. The reasons advanced by Commissioner of Police, Jalandhar

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.

9. In the wake of above discussion and findings, the instant petition deserves to be allowed and accordingly **allowed**. The impugned orders are hereby set aside. The respondent is at liberty to hold inquiry as contemplated by Rule 16.24(1)(vii) of PPR read with Article 311(2) of the Constitution of India. If respondent decides to initiate inquiry, it shall be concluded within six months from today. If inquiry is not completed within six months from today, the petitioner shall be deemed to be reinstated. The petitioner, as conceded by him, shall not be entitled to back wages, however, shall be entitled to counting of past service and notional benefits of period during which he remained out of service. The respondent shall be at liberty to consider petitioner's past record subject to compliance of provisions of Rule 16.24(1)(vii) of PPR. The authorities would pass fresh order without being influenced by this order because court has not expressed opinion on merits.

(JAGMOHAN BANSAL)
JUDGE

27.11.2025
Prince Chawla

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