



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(113+285)

CWP NO.18777-2023(O&M)

DATE OF DECISION: 02.04.2025

Bala Singh

.....Petitioner

VERSUS

State of Haryana and others

.....Respondents

CORAM HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present Dr.Anmol Rattan Sidhu, Sr. Advocate,
with Mr. Harlove Singh Rajput, Advocate,
for the petitioner.

Ms. Palika Monga, DAG, Haryana.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of:

- (i) order dated 25.11.2011 (Annexure P-1) whereby he was dismissed from service;
- (ii) order passed by Inspector General of Police, Hisar whereby his appeal was dismissed;
- (iii) order passed by the Director General of Police whereby his revision was dismissed.

2. The petitioner joined Haryana Police Force on 13.06.1988. An FIR No.144 dated 24.03.2007, under Section 15/25/61/85 of NDPS Act came to be registered at Police Station Ratia. He along with other officers was deputed to investigate the said matter. They seized 20 bags of poppy straw which was to be deposited as case property. He came to be arrested alleging that he has



attempted to mix rice chaff in 11 bags of poppy straw. He was arrested along with four other police officers. One private person was also arrested. For the said purpose, separate FIR No.149 dated 25.03.2007, under Sections 409, 420, 120-B IPC, under Section 15/61/85 of NDPS Act and under Sections 7, 13, 49 and 88 of Prevention of Corruption Act, 1988 was registered at Police Station City Fatehabad. Police after completing investigation filed its report under Section 173 Cr.P.C. The trial Court vide judgment and order dated 24.03.2009, awarded punishment of sentence of one year simple imprisonment under Section 15 of NDPS Act. He was also awarded sentence of three years under Section 420 IPC. Co-accused Karnail Singh and Balwinder Singh were also awarded sentence of imprisonment, however, three other accused namely SI Satbir Singh, EHC Dalip Singh and Constable Amar Singh were acquitted. The petitioner and co-accused namely Karnail Singh and Balwinder Singh preferred appeals before this Court which came to be allowed vide judgment dated 22.05.2023.

3. In the interregnum, the petitioner was dismissed from service vide order dated 25.11.2011, passed by Superintendent of Police, Fatehabad. He unsuccessfully preferred appeal before Appellate Authority as well as revision before Revisionary Authority.

4. Dr.Anmol Rattan Sidhu, Senior Advocate, submits that the petitioner stands acquitted by this Court thus, respondent is bound to reconsider his claim for re-instatement.

5. *Per contra*, Ms. Palika Monga, DAG, Haryana, submits that there was regular departmental enquiry and petitioner was found guilty, thus, petitioner cannot be reinstated on the ground of acquittal in criminal case. He



was acquitted by this Court on technical ground i.e non compliance of Section 42 of NDPS Act.

6. I have heard arguments of learned counsel for the parties and perused the record.

7. Sub-Rule (2) of Rule 16.2 of Punjab Police Rules, 1934 (as applicable to State of Haryana) (for short PPR) provides that an enrolled police officer sentenced judicially to rigorous imprisonment exceeding one month unless sentence is quashed on appeal or revision, be dismissed from service. The Rule further provides that final departmental order in such cases shall be postponed till the appeal or revision proceedings have been decided or until the period allotted for filing appeal has elapsed and appeal/revision is not instituted.

8. Rule 16.2 of PPR for the ready reference is reproduced as below:

“ 16.2. Dismissal. (1) Dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect or continued misconduct proving Incurrigibility and complete unfitness for police service. In making such an award regard shall be had to the length of service of the offender and his claim to pension.

[Explanation.- For the purposes of sub-rule (1), the following shall, inter alia, be regarded as gravest acts of misconduct in respect of a police officer, facing disciplinary action:

(i) indulging in spying or smuggling activities;

(ii) disrupting the means of transport or of communication;

(iii) damaging public property;

(iv) causing indiscipline amongst fellow policemen;

(v) promoting feeling of enmity or hatred between different classes of citizens of India on grounds of religion, race, caste, community or language;

(vi) going on strike or mass casual leave or resorting to mass abstentions;

(vii) spreading disaffection against the Government; and

(viii) causing riots and the like]



(2) An enrolled police officer sentenced judicially to rigorous imprisonment exceeding one month or to any other punishment not less severe, shall, if such sentence is not quashed on appeal or revision, be dismissed. An enrolled police officer sentenced by a criminal court to a punishment of fine or simple imprisonment, or both, or to rigorous imprisonment not exceeding one month, or who, having been proclaimed under Section 87 of the Code of Criminal Procedure fails to appear within the statutory period of thirty days may be dismissed or otherwise dealt with at the discretion of the officer empowered to appoint him. Final departmental orders in such cases shall be postponed until the appeal or revision proceedings have been decided, or until the period allowed for filing an appeal has lapsed without appellate or revisionary proceedings having been instituted. Departmental punishments under this rule shall be awarded in accordance with the powers conferred by rule 16/1.

(3) When a police officer is convicted judicially and dismissed, or dismissed as a result of a departmental inquiry, in consequence of corrupt practices, the conviction and dismissal and its cause shall be published in the Police Gazette. In other cases of dismissal when it is desired to ensure that the officer dismissed shall not be re-employed elsewhere, a full description roll, with particulars of the punishments, shall be sent for publication in the Police Gazette.”

9. Rule 16.3 of PPR provides that if a police officer is acquitted by criminal Court, he shall not be punished departmentally on the same charge or on a different charge upon the evidence cited in the criminal case. 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.”

10. The acquittal from criminal proceedings does not automatically entitle immunity from departmental action. A police officer may be subjected to departmental punishment despite acquittal in criminal proceedings as per exceptions carved out in Rule 16.3 of PPR. If acquittal is not based upon exceptions carved out in Rule 16.3 of PPR, a police officer is entitled to immunity from departmental action.

11. As per proviso to sub-rule (2) of Rule 16.2 of PPR (as applicable to State of Punjab), it is quite evident that in case of setting aside of conviction, the officer empowered to appoint is duty bound to review case of the police officer. Rule 16.2(2) of PPR as applicable to Punjab is reproduced as under:-

“(2) If the conduct of an enrolled police officer leads to his conviction on a criminal charge and he is sentenced to imprisonment, he shall be dismissed :

Provided that a punishing authority may, in an exceptional case involving manifestly extenuating circumstances for reasons to be recorded and with the prior



approval of the next higher authority impose any punishment other than that of dismissal :

Provided further that in case the conviction of an enrolled police officer is set aside in appeal or revision, the officer empowered to appoint him shall review his case keeping in view the instructions issued by the Government from time to time in this behalf.

[Emphasis supplied]

12. As per Rule 16.3(2) as applicable to State of Haryana, a Police Officer shall not be dismissed if his sentence is quashed on appeal or revision. The Rule further provides that final departmental orders shall be postponed until the appeal or revision proceedings have been decided or until the period allotted for filing an appeal has lapsed without appellate or revisionary proceedings having been instituted.

In the case in hand, petitioner was convicted, thus, he was liable to be dismissed from service, however, his conviction stands set aside by this Court. The department could keep its proceedings in abeyance till conclusion of the criminal proceedings, however, department as per its wisdom found it appropriate to conclude department proceedings without waiting for the outcome of criminal proceedings. As department has concluded proceedings without waiting outcome of criminal proceedings and the petitioner stands acquitted by this Court, the matter needs to be reconsidered in terms of Rule 16.3 of PPR.

13. In the wake of above discussion and quoted rules, this Court finds it appropriate to remand the matter to disciplinary authority to reconsider the case of the petitioner in the light of judgment of acquittal passed by this Court as well as Rule 16.2 read with Rule 16.3 of PPR. The needful shall be done within six months from today.



- 14. Disposed of in above terms.
- 15. Pending CM, if any, shall also stand disposed of.

02.04.2025
mamta

(JAGMOHAN BANSAL)
JUDGE

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