

**CWP-24280-2025****-1-**

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

115**CWP-24280-2025****Date of Decision: 21.08.2025****Joginder****...Petitioner**

Versus

State of Haryana and others**...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: - Mr. Aditya Yadav, Advocate for the petitioner

Mr. Ashok Kumar Khubbar,
Additional Advocate General, 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 order dated 13.05.2025 whereby the Commissioner of Police, Jhajjar has rejected his claim for regular promotion to the post of Assistant Sub-Inspector.

2. The petitioner was enrolled as Constable in Haryana Police on 08.01.1999. He was promoted as Head Constable on 01.01.2010. He came to be implicated in FIR No.450 dated 11.09.2016 under Sections 167, 193, 342, 120-B of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Sadar Bahadurgarh. The respondent initiated regular departmental enquiry against him. He was declared guilty by the Enquiry Officer. The Disciplinary Authority awarded him punishment of dismissal from service. He preferred appeal before the Appellate Authority which dismissed his appeal. He further preferred revision before Director General of Police



(‘DGP’), Haryana who vide order dated 19.09.2018 substituted the punishment of dismissal from service for stoppage of two annual increments with permanent effect. He further preferred petition before Government and Additional Chief Secretary to Government of Haryana vide order dated 23.05.2022 maintained punishment of stoppage of two annual increments without permanent effect. The petitioner vide communication dated 07.08.2024 requested the respondent to promote him as Assistant Sub-Inspector. He preferred *CWP No.33142 of 2024* before this Court which was disposed of vide order dated 13.02.2025 with a direction to respondent to decide his representation within three months. The respondent by impugned order rejected his representation on the ground that a criminal case is pending against him.

3. Learned counsel for the petitioner submits that respondent has passed impugned order contrary to instructions dated 22.09.1980 issued by State Government. As per instructions, promotion can be withheld if an employee is facing enquiry which means departmental enquiry. In the case of the petitioner, departmental enquiry has already been concluded and he was awarded punishment of forfeiture of two increments with temporary effect. The currency of forfeiture of increment is over, thus, petitioner is entitled to promotion.

4. From the perusal of record, it comes out that petitioner was subjected to departmental enquiry on account of his involvement in afore-stated criminal case. There was allegation against him that he along with other police officials registered false FIR against the persons named in the FIR. The Enquiry Officer found the petitioner as well as other officials



guilty. The Disciplinary Authority awarded punishment of dismissal from service to the petitioner and two more officials. Punishment of stoppage of five/three annual increments was granted to four Head Constables. They preferred appeal before Appellate Authority which was dismissed. The DGP, Haryana taking lenient view substantially reduced punishment from dismissal from service to forfeiture of two increments with permanent effect. It was unfortunate that Additional Chief Secretary to Government of Haryana acting mechanically converted punishment of forfeiture of two increments with permanent effect into forfeiture of increments without permanent effect. The higher authorities have power to modify, set-aside or annul the award passed by lower authorities, however, they cannot reduce quantum of punishment in a mechanical manner when misconduct is established. Conversion of punishment from dismissal to stoppage of two increments without permanent effect is quite strange and shocking.

5. The petitioner, despite aforesaid facts, is claiming further promotion to the post of Assistant Sub-Inspector on the ground that he has been awarded minor punishment and currency of punishment is over. The petitioner concededly is facing criminal proceedings under Sections 167, 193, 342, 120-B of IPC. The Disciplinary Authority found misconduct of the petitioner very serious which compelled it to award punishment of dismissal from service. Trial is going on and the petitioner is claiming promotion on the ground that departmental enquiry stands concluded. He is further pleading that as per instructions, promotion could be denied only where an enquiry is pending or during the currency of punishment. None of the



situation exists herein, thus, there is no valid ground to withhold his promotion.

6. The petitioner is governed by Punjab Police Rules, 1934 (as applicable to State of Haryana) (for short 'PPR'). Rule 13.9 specifically deals with promotion from the post of Head Constable to Assistant Sub-Inspector. It provides that officer should be thoroughly efficient in all branches of the duties and of established integrity. For the ready reference, Rule 13.9 of PPR is reproduced as below: -

“13.9. List D. Promotion to assistant sub-inspectors.

(1) A list shall be maintained in each district in card index Form 13.9(1) of those head constables who have passed the lower school course and the Intermediate school course at the Police Training School and are approved by the Deputy Inspector-General as eligible for officiating or substantive promotion to the rank of assistant sub-inspector. No head constable shall be admitted to this list who is not thoroughly efficient in all branches of the duties of a constable and head constable and of established integrity.

(2) Officiating promotion to the rank of assistant sub-inspector shall be made from the list prescribed in sub-rule (1), as far as possible in rotation, so as to give each man a trail in the duties of the higher rank. Substantive promotion shall be made by the deputy Inspector-General in accordance with the principles prescribed in rule 13.1, and officiating promotion shall be made in accordance with sub rule 13.4 (2).

(3) Half-yearly reports in Form 13.9(3) on all head constables in this list shall be furnished on the 15th April and the 15th October, to the Deputy Inspector-General.”



7. From the perusal of above quoted Rule, it is evident that a Head Constable can be promoted if he is thoroughly efficient and is of established integrity. Documents on record do not support case of the petitioner. Though the Authorities have reduced the quantum of punishment, however, findings recorded by the Enquiry Officer are not disturbed. The petitioner is further facing criminal trial which establishes that it cannot be called that he is thoroughly efficient or a man of established integrity.

8. As per Rule 13.9(2), the principles prescribed in Rule 13.1 have to be followed while making substantive promotion. Rule 13.1 provides that promotions shall be made by selection tempered by seniority. Efficiency and honesty shall be the main factors governing selection. The relevant extracts of Rule 13.1 read as: -

“13.1 Promotion from one rank of another

(1) Promotion from one rank to another, and from one grade to another in the same rank, one grade to another in the same rank, shall be made by selection tempered by seniority. Efficiency and honesty shall be the main factors governing selection. Specific qualifications, whether in the nature of training courses passed or case. When the qualifications of two officers are otherwise equal, the Senior shall be promoted. This rule does not affect increment within a time-scale.

(2) Under the present constitution of the Police force no lower subordinate will ordinarily be entrusted with the independent conduct of investigations or the independent charge of a police station or similar unit. It is necessary, therefore, that well-educated constables, having the attributes necessary for bearing the responsibilities of upper subordinate rank, should receive accelerated promotion so as to reach that rank



as soon as they have passed the courses prescribed for, and been tested and given practical training in, the ranks of constable and head constable.

XXXX XXXX XXXX XXXX”

From the reading of Rule 13.1, it is evident that efficiency and honesty are main factors governing promotion. The petitioner is facing criminal trial and has been subjected to punishment of stoppage of two increments, thus, he cannot claim promotion at this stage. His case is squarely covered by Rules 13.9 as well as 13.1 of PPR.

9. A Co-ordinate Bench of this Court while dealing with the status of police officials who are facing criminal proceedings passed order dated 15.03.2021 in *CWP No.12011 of 2020*. The relevant extracts whereof read as: -

“It has been stated in the affidavit by the Additional Chief Secretary, Department of Home Affairs and Justice, Punjab that the State has taken a decision to constitute a committee to frame a policy with regard to action to be taken in those cases where the police officers have been convicted. Learned State counsel submits that the committee is headed by the Additional Chief Secretary, Department of Home Affairs and Justice, Punjab. He also submits that Mr. Parmod Kumar, Director General of Police, Provisioning and Modernization and Mr. Amarjot Singh Gill, Former Director General of CRPF have been included in the committee. He seeks more time to enable the committee to frame a policy.

The committee shall also examine the issue of officers against whom FIRs have been registered and trials are pending as there has to be uniformity in dealing with such cases on the basis of their nature and gravity.

It is further directed that till the committee arrives at a decision and considers the individual cases of the officers, no police officer who is charge-sheeted and / or convicted in a



criminal case involving moral turpitude, shall remain posted at a post having public dealing. Furthermore they shall not be assigned investigation, either as investigating officer or in a supervisory capacity and will not be posted in the vigilance bureau till the final decision is taken by the committee. They shall also not be posted in the district where their criminal case is being tried. Status report with regard to the progress made by the committee shall be filed before the next date of hearing.”

10. The State preferred Intra-Court Appeal against aforesaid order. A Division Bench issued notice of motion on 31.08.2021 as well as notice regarding stay. It is apt to notice that order dated 15.03.2021 was never stayed. The LPA Bench in its order dated 20.03.2023 noticed question of Sanctity of Roster. The Court observed that issues raised by Single Judge deserve to be considered and further ordered to register the matter as *Suo Motu* PIL. The relevant extracts of order dated 20.03.2023 read as: -

“In view of the aforesaid, as the issues raised by the learned Single Bench deserve consideration and in fact have been considered by this Court since the year 2021 and in response thereto, several compliance reports have been filed by the State, we deem it appropriate to take up these issues regarding the action to be taken against tainted and convicted police officers as well as regarding posting of State Service officers on the posts that have to be filled up or occupied only by the IPS officers, and register it as suo motu PIL. This issue, henceforth, shall be dealt with by the Bench assigned to hear PILs. As far as individual cases and issues from which this PIL arises are concerned, that are pending before the learned Single Bench, the same would be dealt with by the concerned Single Bench(es) strictly as per rules and roster. The State of Punjab is directed to implead Union of India as party to this appeal and serve a copy of the complete paper



book on the learned Additional Solicitor General of India. Learned Additional Solicitor General of India would also seek instructions in respect of the issues involved. Learned Additional Advocate General, Punjab, prays for further time to file status report as to why the head of the police administration should not be an IPS officer.”

11. The above noted orders, though relating to State of Punjab, indicate that this Court has taken cognizance of posting and continuation of police officials who are facing criminal cases or have already been convicted.

12. In the wake of above discussion and findings, this Court is of the considered opinion that respondent has rightly rejected claim of petitioner *qua* promotion to the post of Assistant Sub-Inspector. The present petition being bereft of merit deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

21.08.2025

Mohit Kumar

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