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

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CWP-26365-2025

Date of Decision: 05.09.2025

Sikander

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Sunil Kumar Nehra, Advocate,
Mr. Anuj Chauhan, Advocate,
Mr. Rahil Mahajan, Advocate,
Mr. Viren Nehra, Advocate,
Mr. Arjun Dosanj, Advocate and
Ms. Meghna Nehra 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: -

- i. order dated 18.12.2017 whereby he was dismissed from service;
- ii. order dated 31.05.2018 whereby his appeal was dismissed; and
- iii. order dated 04.05.2022 whereby his revision petition was dismissed.

2. The petitioner joined Haryana Police Force as Constable on 28.10.2000. He was implicated in FIR No.413 dated 15.12.2015 under



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Sections 148, 149, 323, 325, 506 & 307 of Indian Penal Code, 1860 (for short 'IPC') and Sections 25, 54 & 59 of Arms Act, 1959 registered at Police Station Kurukshetra University, Kurukshetra. He was arrested on 08.02.2016. The department suspended him on 16.02.2016. He was awarded punishment of stoppage of five increments. He preferred appeal which came to be dismissed. He was convicted vide judgment dated 08.08.2017 passed by Additional Sessions Judge, Kurukshetra in the aforesaid FIR. He was awarded sentence. On account of judgment of conviction and sentence, he was dismissed from service vide order dated 18.12.2017 w.e.f. 08.08.2017. He preferred appeal against judgment of conviction. This Court suspended his sentence on 13.11.2017. He entered into compromise with the complainant and on the basis of compromise, this Court allowed his appeal and set aside judgment of conviction.

3. Learned counsel for the petitioner submits that petitioner stands acquitted because this Court vide judgment dated 21.04.2025 has set aside judgment of conviction and order of sentence dated 08.08.2017 passed by learned Additional Sessions Judge, Kurukshetra. As judgment of conviction and order of sentence stand set aside, the petitioner is entitled to be reinstated. This Court while setting aside judgment of conviction has recorded *prima facie* finding that offence under Section 307 of IPC is not made out. As per judgment of this Court in ***Vinod Kumar v. State of Punjab and others, 2016 SCC OnLine P&H 14157*** and ***Ishwar Singh v. State of Haryana and others, 2011 SCC OnLine P&H 15653***, the petitioner is entitled to be reinstated as dismissal was based on conviction and conviction stands set aside.



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

5. From the perusal of impugned orders, it is evident that petitioner was dismissed from service on account of his conviction by Trial Court vide judgment dated 08.08.2017. He was awarded punishment of 10 years under Section 307 read with Section 34 of IPC and 3 years under Section 325 IPC. After conviction, he preferred appeal before this Court and during the pendency of appeal, he entered into compromise with the complainant. In view of compromise, this Court vide judgment dated 21.04.2025 passed in *CRA-S-3108-SB-2017* allowed appeal of the petitioner and set aside judgment of conviction and order of sentence. The relevant extracts of judgment dated 21.04.2025 passed by this Court read as: -

“This Court finds force in the arguments advanced by learned counsel for the appellants that prima facie no offence under Section 307 of IPC is made out as the complainant, namely, Dharambir, has sustained a fracture to the third metacarpal bone in his left hand which at most constitutes an offence under Section 325 of IPC. Further, the FIR (supra) was registered in the year 2015 and ten years have passed. It is pertinent to note that both the accused and the complainant as well as the injured party, are family members. The alleged incident occurred during a marriage function and as a result, a compromise has been effected between the parties. Once it is established that no offence under Section 307 of the IPC i.e. attempt to murder, is prima facie made out, there is no legal impediment in quashing the FIR on the grounds of compromise. The injuries sustained as proved by PW-18 on the basis of X-ray report only substantiate a case under Section 325 of IPC. In view of the categorical medical evidence, conviction under Section 307 of IPC would not sustain. The appellants are liable for causing grievous hurt invoking Section 325 of IPC.”



6. From the perusal of above quoted paragraph, it is evident that Court has recorded a categoric finding that offence under Section 307 of IPC is not *prima facie* made out, however, petitioner is liable for causing grievous hurt invoking Section 325 of IPC. As per Rule 16.2 of Punjab Police Rules, 1934 (as applicable to State of Haryana) (for short 'PPR') a police officer is liable to be dismissed if he is awarded rigorous imprisonment of more than 1 month. Rule 16.2 of PPR reads as:-

“16.2. Dismissal. (1) Dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect or continued misconduct proving incorrigibility 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.”

[Emphasis Added]

7. From the perusal of Rule 16.2(2), it is evident that a police officer is liable to be dismissed if he is awarded rigorous imprisonment of more than one month. If the sentence is set aside by Appellate or Revisionary Court, the officer is not liable to be dismissed. Rule 16.3 of PPR provides that departmental proceedings shall not be initiated on the same charge if police officer is acquitted in the judicial proceedings. Rule 16.3(1) carves out exceptions where police officer may be subjected to departmental punishment despite acquittal in criminal proceedings. Rule 16.3 of PPR reads as: -



“16.3 Action following on a judicial acquittal.-

(1) When a Police Officer has been tried and acquitted by a 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, 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*
- (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 the Deputy Inspector-General of Police; and a police officer against whom such action is admissible shall not be deemed to have been honourably acquitted for the purpose of rule 7.3 of the Civil Services Rules (Punjab), Volume I, Part I.”

8. From the reading of Rule 16.3, it *prima facie* appears that it is applicable while departmental proceedings are pending or not initiated at all. Reading the Rule in the said manner would not be justified because there may be a situation where one police officer is subjected to departmental punishment despite pendency of criminal proceedings and proceedings *qua* another officer is kept pending awaiting outcome of criminal proceedings. The principle laid down in Rule 16.3 of PPR ought to be equally applied to



all the officers whether subjected to departmental proceedings prior to conclusion of criminal proceedings or not. A Coordinate Bench of this Court after noticing judgment of Hon'ble Supreme Court in ***Capt. M. Paul Anthony v. Bharat Gold Mines Limited, 1999(3) SCC 679*** has dismissed a bunch of petitions including ***CWP No.5111 of 2024, Mustaq v. State of Haryana and others*** and ***CWP No.15845 of 2023, Tulsi Dass v. State of Haryana and others***. It has been held that departmental proceedings can continue even during the pendency of criminal proceedings. Intra-Court Appeals including ***LPA No.1255 of 2024, Tulsi Dass v. State of Haryana and others*** and ***LPA No.1146 of 2024, ASI Pawan Kumar v. State of Haryana and others*** were filed against aforesaid judgments which stand dismissed vide judgments dated 22.05.2024 and 08.05.2024 respectively.

9. In view of afore-cited judgment and Rule 16.3 of PPR, this Court is of the considered opinion that Rule 16.3 is applicable to all officers either acquitted prior to conclusion of departmental proceedings or thereafter. The authorities have to examine whether case of delinquent falls within exceptions carved out under Rule 16.3 or not.

10. In the case in hand, the petitioner was convicted by Trial Court. He was awarded punishment of 10 years under Section 307 IPC and 3 years under Section 325 IPC. This Court has principally allowed appeal on the basis of compromise. The judgment of conviction has not been set aside on merits. The Court has even recorded the findings that offence under Section 325 is made out. In such circumstances, case of the petitioner falls under exceptions carved out under Rule 16.3(1) of PPR. As per Rule 16.2 of PPR, an officer is liable to be dismissed who is awarded rigorous imprisonment of more than one month. Case of the petitioner squarely falls under Rule



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16.2(2), thus, he was rightly dismissed from service. He cannot claim reinstatement.

11. Scope of interference while exercising jurisdiction under Articles 226/227 of the Constitution of India in disciplinary proceedings is very limited. The Court has no power to look into quantum of sentence/punishment unless and until it finds that sentence awarded is disproportionate to alleged offence. It is further settled proposition of law that High Court while exercising its jurisdiction under Article 226 of Constitution of India can look into the procedure followed by authorities. In case, it is found that Enquiry Officer or Disciplinary Authority has not considered any evidence on record or misread the evidence or procedure as prescribed by law has not been followed, the Court can interfere. A two-Judge Bench of Supreme Court in *Union of India and others v. Subrata Nath, (2022) SCC OnLine 1617* while advertng to scope of interference under Article 226 of the Constitution of India in disciplinary proceedings has held that departmental authorities are fact finding authorities. On finding the evidence to be adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct.

12. In the wake of above discussion and findings, this Court is of the considered opinion that present petition being bereft of merit deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

05.09.2025

Mohit Kumar

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