

LPA-3244-2024 (O&M)

2025:PHHC:024245-DB



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

**LPA-3244-2024 (O&M)
Date of Decision: February 18, 2025**

Tehal Singh

.....Appellant

Versus

State of Punjab and others

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA**

Present: Mr. Ramesh Sharma, Advocate for the petitioner.

Mr. R.S. Pandher, Sr. DAG, Punjab.

LISA GILL, J.

1. Prayer in this appeal is for setting aside order dated 01.10.2024 passed by learned Single Judge whereby writ petition filed by the present appellant has been dismissed.

2. Brief facts necessary for adjudication of appeal are that appellant (writ petitioner) filed CWP-25390-2024 for setting aside order dated 02.08.2024, whereby his claim for reinstatement in service, subsequent to his acquittal in FIR No. 7 dated 07.08.2017 vide judgment dated 09.08.2023 has been rejected. Appellant, who joined Punjab Police on 30.11.1990, was posted as Assistant Sub Inspector at Police Station Kotwali Nabha on 04.08.2017. He

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was nominated as accused in FIR No. 7 dated 07.08.2017 under Sections 7 and 13(2) of Prevention of Corruption Act, 1988 registered at Police Station Vigilance Bureau, Ludhiana. FIR was lodged on the basis of complaint filed by one Harinderpal Singh. Allegation levelled in FIR No. 7 dated 07.08.2017 against appellant by complainant was that he had a dispute with other party as named therein, leading to registration of FIR No. 54/2016 against him (Harinderpal Singh) at the instance of Ravinder Singh. Compromise was arrived at between the parties, consequent to which petition for quashing of FIR No. 54/2016 on the basis of compromise was filed before this High Court. Police officials were called upon to furnish the report regarding declaration of opposite party innocent after inquiry. It is alleged that Harinderpal Singh (accused in FIR No. 54/2016) met the present appellant in order to obtain copy of such report upon which appellant said that it is not possible but also demanded sum of Rs.40,000/- and on negotiation he agreed to accept Rs.35,000/-. Trap was laid by Vigilance Bureau. Appellant was arrested and challan/final report under Section 173 Cr.P.C. presented against him. Witnesses, however, did not support the prosecution case and were declared hostile. Learned Special Judge, Ludhiana acquitted the appellant of the charges against him while affording benefit of doubt.

3. It is to be noted that departmental proceedings were also initiated against the appellant with charge sheet dated 21.12.2017 being served upon him. Inquiry was duly conducted and he was dismissed from service on 17.06.2019. Appeal filed by present appellant before Inspector General of Police, Patiala was dismissed vide order dated 11.10.2019. Revision filed by appellant was also dismissed by Director General of Police (DGP) on 02.07.2020. No challenge was laid by appellant thereto at that stage.

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Thereafter appellant was acquitted in FIR No. 7 dated 07.08.2017 vide judgment dated 09.08.2023. Pursuant thereto, CWP-5789-2024 was filed by appellant challenging order of dismissal as well as orders upholding the same by the Appellate and Revisional authorities. Learned Single Bench vide order dated 13.03.2024 observed that Appellate authority did not advert to provision of Rule 16.3 of Punjab Police Rules, 1934 (for short – ‘PPR, 1934’) while passing order dated 11.10.2019. Orders as impugned in said writ petition were set aside. It was directed that in order to cut short the litigation, Appellate authority instead of Disciplinary authority should pass fresh order within three months. Pursuant thereto, vide order dated 24.04.2024, matter was reviewed by DGP wherein it was held that the matter fell under Rule 16.3(1)(a)(b) of PPR, 1934, therefore, dismissal from service was upheld. CWP-11688-2024 was again filed by appellant, which was allowed on 18.05.2024 by learned Single Bench. Order dated 24.04.2024 was set aside on finding the same to be non-speaking. DGP was directed to pass fresh speaking order within three months. In compliance thereof, order dated 06.08.2024 was passed by DGP. After discussing the facts and circumstances including the allegations against appellant, appeal was again rejected. Aggrieved therefrom, CWP-25390-2024 was filed.

4. Learned Single Bench concluded that on a perusal of judgment of acquittal passed by learned trial Court, case of petitioner fell within the ambit of Rule 16.3 (1)(b) of PPR, 1934, therefore, he is not entitled to benefit of acquittal in terms of Rule 16.3 of PPR, 1934. Order dated 02.08.2024 was upheld. Aggrieved therefrom, present appeal has been filed.

5. Learned counsel for appellant vehemently argues that once the appellant was acquitted of charges against him vide judgment dated

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09.08.2023 passed by learned Special Judge, Ludhiana, there was no question of denying the benefit of reinstatement to appellant and setting aside the order of dismissal. Merely because appellant has been acquitted on account of benefit of doubt cannot be a reason to deny him relief. It is vehemently argued that acquittal is what it is 'an acquittal' and there cannot be any sub-classifications thereof. Moreover, allegation against appellant is clearly devoid of any merit. Challan had already been presented in FIR No. 54/2016 on 26.05.2017, therefore, no occasion arose to appellant to seek illegal gratification. Learned counsel for appellant has referred to statements of witnesses in the departmental inquiry as conducted, to submit that inquiry report is incorrect and unworthy of reliance. Complainant in FIR No. 54/2016, it is submitted, had stated that he did not enter into any compromise with Harvinderpal Singh. Learned counsel submits that inquiry report has been incorrectly accepted and appellant visited with punishment of dismissal which has been incorrectly upheld. It is, thus, prayed that this appeal be allowed.

6. Learned counsel for State (on advance notice) has opposed the appeal while submitting that a well reasoned and logical order dated 01.10.2024 has been passed by learned Single Bench upholding dismissal of appellant. Dismissal of appeal is sought.

7. We have heard learned counsel for parties and have perused the file with their able assistance.

8. Factual matrix in respect to involvement of appellant in FIR No. 7 dated 07.08.2017, his subsequent acquittal on 09.08.2023 besides separate departmental proceedings initiated against him and various orders passed thereon, are all a matter of record and are not being reproduced again for the sake of brevity. It is a matter of record that separate departmental

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proceedings were carried out against appellant and he was dismissed from service on 17.06.2019 with his appeal and revision also being dismissed. In view of the subsequent orders passed in writ petitions filed by appellant, order dated 06.08.2024 was ultimately passed by DGP, while considering the issue as to whether appellant is entitled to any relief in terms of Rule 16.3 of PPR, 1934. Rule 16.3 of PPR, 1934 reads as under:-

“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 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.”

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9. As has been noted in the foregoing paras, appellant was dismissed from service on 17.06.2019 and was acquitted on 09.08.2023. Admittedly, material witnesses in criminal proceedings had turned hostile. As per FSL report, solution in question did contain sodium ions, carbonate ions and phenolphthalein. Solution of handwash of appellant had changed colour though learned trial Court concluded that conviction cannot be based merely on the basis of FSL report. Complainant has not denied the incident in question but has stated that appellant refused to take money. It is in this given factual matrix that benefit of doubt was afforded to the appellant.

10. DGP, Punjab vide order dated 06.08.2024 has considered the matter threadbare and rightly rejected the claim of appellant. This order has been correctly upheld by learned Single Bench vide order dated 01.10.2017 while holding that appellant's case falls within the ambit of Rule 16.3(1)(b) of PPR, 1934. We do not find any merit in the argument raised by learned counsel for appellant that inquiry conducted by the Department is factually inaccurate and evidence led therein does not prove the allegations against appellant. It is a settled position that this Court shall not sit in appeal over inquiry proceedings.

11. Learned counsel for appellant is unable to point out any procedural defect or denial of opportunity of hearing or violation of principles of natural justice during the course of inquiry. CWP-12827-2020 filed by appellant prior to his acquittal for setting aside orders dated 17.06.2019, 11.10.2019, 02.07.2020 was admittedly dismissed on 26.08.2022. Scope of present proceedings are limited to the question of matter being within the ambit of Rule 16.3(1)(b) of PPR, 1934 or otherwise.

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12. Learned counsel for appellant is unable to point out any illegality, infirmity or perversity in the impugned order dated 01.10.2024 passed by learned Single Bench.

13. No other argument has been addressed.

14. Appeal is, accordingly, dismissed with no order as to costs.

15. Pending application(s), if any, stand(s) disposed of.

(LISA GILL)
JUDGE

(DEEPINDER SINGH NALWA)
JUDGE

February 18, 2025
Rts

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