



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

CWP-6881-2006 (O&M)

Date of Decision: 19.01.2026

Surat Singh and Another

...Petitioners

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Dr. Anmol Rattan Sidhu, Senior Advocate with
Ms. Mandeep Singla, Advocate
for the petitioners.

Mr. Ravi Partap Singh, DAG, Haryana.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioners through instant petition under Articles 226 and 227 of the Constitution of India are seeking setting aside of orders passed by departmental authorities whereby they were awarded punishment of dismissal from service.

2. The petitioner No.1 joined Police Force as Constable in 1970 and petitioner No.2 in 1989. In 2005, they were posted at Police Post, Bus Stand, Jhajjar. The Superintendent of Police (**SP**), Jhajjar vide order dated 15.12.2005 placed them under suspension on the ground that they have misbehaved with Ms. Uma, daughter of Shankar Singh, resident of Almora (UP) under the influence of liquor. In the suspension order it was mentioned that Deputy Superintendent of Police (**DSP**), Jhajjar will conduct regular inquiry and submit his report. The respondent vide order dated 26.12.2005 invoking Clause (b) of second proviso to Article 311(2)

of the Constitution of India dispensed with departmental inquiry and dismissed the petitioners from service. They preferred an appeal which came to be dismissed by Appellate Authority vide order dated 14.03.2006 passed by Inspector General of Police (IGP), Rohtak. The appeal was dismissed on the ground that no appeal lies against order of dismissal under Article 311(2)(b) of the Constitution of India.

3. Learned counsel representing the petitioners submits that punishment awarded by authorities is disproportionate to alleged misconduct. The petitioners were dismissed from service without conducting inquiry as contemplated by Rule 16.24 of Punjab Police Rules, 1934 (As applicable to State of Haryana) (for short “PPR”) read with Article 311 of the Constitution of India. There was no reason to dispense with inquiry. They were initially placed under suspension and in the suspension order, it was mentioned that regular inquiry would be conducted by DSP. There was no occasion to dispense with inquiry and respondent mechanically dispensed with inquiry and dismissed them from service.

4. Learned State counsel reiterates the findings of the departmental authorities and vehemently submits that no interference is warranted. The petitioners belong to a disciplined force, thus, their conduct must be above board. They are bound to maintain high standards of discipline.

5. Heard the arguments and perused the record.

6. The petitioners were 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 herein below:-

“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”

7. 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.”

8. In the case in hand, while dispensing with departmental inquiry, the disciplinary authority vide order dated 26.12.2005 has observed as under:-

“Keeping in view the Immoral Act committed by both of you under the garb of police, it is not practicable to hold regular departmental enquiry against both of you. Taking into consideration the prevailing circumstances, it would not be practicable and possible to hold regular departmental enquiry. District Inspector, Jhajjar visited the spot and is satisfied that both of you have committed this grave act. The undersigned is satisfied to dispense with the regular departmental enquiry.”

9. The respondent while placing petitioners under suspension observed that DSP would conduct inquiry. There was no reason to dispense with inquiry. The aforesaid reason to dispense with inquiry by no stretch of imagination can be justified.

10. It is a settled proposition of law that punishment should be incommensurate to alleged offence. The principle of proportionality should be followed by all quasi-judicial and judicial authorities while awarding punishment irrespective of nature of offence. As per principle of proportionality, even punishment prescribed by legislation must be incommensurate to alleged offence. If punishment is disproportionate to alleged offence, it is violative of Article 14 of the Constitution of India.

11. In ***Om Kumar v. Union of India, (2001) 2 SCC 386***, Supreme Court vide order dated 4.5.2000 proposed to re-open the quantum of punishments imposed in departmental inquiries on certain officers of the Delhi Development Authority who were connected with the land of the DDA allotted to M/s. Skipper Construction Co. It was proposed to consider imposition of higher degree of punishments in view of role of these officers in the said matter. The question posed before the court was whether the right punishment was awarded to the officers in accordance with well-known principles of law or whether the punishments required any upward revision.

In ***Bhagat Ram v. State of Himachal Pradesh, (1983) 2 SCC 442***, the Apex Court held that any penalty which is disproportionate to the gravity of misconduct would be violative of Article 14 of the Constitution of India. The relevant extracts of the judgment read as:

"15. ... It is equally true that the penalty imposed must be commensurate with the gravity of the misconduct, and that any penalty disproportionate to the gravity of the misconduct would be violative of Article 14 of the Constitution. ..."

12. In the instant case, by no means or reasons, awarded punishment can be called proportionate to alleged misconduct. The petitioners were having 35 years' and 16 years' service respectively to their credit at the time of passing impugned order of dismissal from service. There was no complaint by aggrieved girl or her family members. There was no allegation of sexual assault. There was allegation of beating a 16 years old girl. The respondent, at the first instance, placed them under suspension and ordered that regular departmental inquiry would be conducted. After 10 days, the respondent without any plausible reason dispensed with inquiry and dismissed them from service. There was no past adverse record of the petitioners. In these circumstances, punishment of dismissal from service seems to be harsh and on the higher side. The quantum of punishment needs to be reconsidered.

13. The Supreme Court has held that in case Court finds that punishment awarded by authority is disproportionate to alleged misconduct, the Court should remand the matter back to competent authority to reconsider quantum of punishment, thus, matter needs to be remanded to disciplinary authority to reconsider quantum of punishment.

14. The petitioner No.1 has already passed away. Learned counsel for petitioners has submitted that grievance of petitioner No.1 would be redressed if lumpsum amount is paid to his wife. The petitioner had 35 years' service to his credit. He has passed away. He could not get gratuity, leave encashment and pension due to dismissal order. His wife as informed by counsel is about 75 years old. Considering the facts and circumstances of the case, this Court finds it appropriate to direct respondents to pay a sum of Rs.10,00,000/- to wife of petitioner No.1 in

lieu of all retiral benefits. Accordingly, the respondents are directed to pay a sum of Rs.10,00,000/- to wife of petitioner No.1 within six weeks from today, failing which there would be liability of interest @ 9% per annum.

15. With respect to petitioner No.2, it would be appropriate to allow the petition by way of remand to disciplinary authority to pass fresh order in terms of aforesaid findings. It is made clear that petitioner No.2 shall be awarded punishment other than dismissal from service. He shall be given another opportunity, subject to appropriate punishment, to serve police department. As conceded by him, he shall not be entitled to back wages for the period he remained out of service. The respondent shall consider impugned order if, at any stage, he is found involved in any other crime. The needful shall be done within four weeks from today. The fresh order shall be passed after granting opportunity of hearing. At the first instance, petitioner would appear before DCP, Jhajjar on 29.01.2026 at 11:00 AM and thereafter as directed by said Officer.

16. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

19.01.2026
Prince Chawla

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