



CWP No. 12237 of 2011(O&M) -1-

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

**CWP No. 12237 of 2011(O&M)
Date of Decision:19.01.2026**

Babu Lal

....Petitioner

vs.

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Manoj Tanwar, Advocate
for the petitioner

Mr. Praveen Mehta, D.A.G, 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 orders passed by departmental authorities whereby he was dismissed from service.

2. The petitioner joined Police force on 30.01.2001 as Constable. An FIR No. 339 dated 15.12.2008 under Sections 354, 342 IPC at Police Station Rewari City was registered against him and he was arrested. The Disciplinary Authority invoking Clause (b) of second proviso to Article 311(2) of the Constitution of India dismissed him from service w.e.f. 15.12.2008 without conducting inquiry. He preferred appeal which came to be dismissed on ground of limitation vide order dated 10.03.2009 passed by

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Appellate Authority. This Court directed to decide the appeal on merits which was again dismissed on 13.12.2010.

3. Learned counsel for the petitioner submits that petitioner was 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. He was dismissed from service on account of his implication in FIR under Sections 354 and 342 of IPC. He faced trial and came to be acquitted by Trial Court.

4. *Per contra*, learned State counsel submits that petitioner was guilty of offence of outraging modesty of a lady. It was a serious offence, thus, he was dismissed from service without conducting inquiry. He has been acquitted by trial Court because complainant turned hostile. Case of petitioner does not fall under Rule 16.3 of PPR.

5. Heard the arguments and perused the record.

6. The petitioner was 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 15.12.2008 has observed as under:-

“ I, Ram Singh Bishnoi, IPS, Superintendent of Police, Rewari am of the considered opinion that it is not reasonably practical to hold inquiry against Constable Babu Lal No. 830/RWR as it shall expose the victim to undue harassment and will further rule out a fair inquiry into the act and conduct of the defaulter. The act and conduct of the ‘defaulter’ warrants outright dismissal from the service.”

9. The reason advanced by disciplinary authority for dispensing with inquiry is not plausible reason because same reason is advanced in every second case where there is FIR against serving police officer. The respondent can dispense with inquiry if actually it is not practicable to hold the inquiry. Mere writing one or more lines in the impugned order that it is not practicable to hold inquiry or assigning vague reason is not compliance of mandate of either Constitution of India or Rule 16.24 of PPR. It would have been in the interest of both sides and better course, had the respondent instead of straight away dismissing the petitioner put him under suspension and thereafter conducted inquiry.

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

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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***, Hon'ble 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.

12. 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. ..."

13. In the instant case, by no means or reasons, awarded punishment can be called proportionate to alleged misconduct. The petitioner was having seven and a half years' service to his credit at the time of passing impugned order of dismissal from service. He was implicated on



the basis of statement of complainant. He faced trial and came to be acquitted as complainant did not support case of the prosecution. He was not granted opportunity of hearing by the Department and Trial Court acquitted him. 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.

14. 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.

15. In the backdrop, the petition is allowed by way of remand to disciplinary authority to pass fresh order in terms of aforesaid findings. It is made clear that petitioner shall be awarded punishment other than dismissal from service. As conceded by him, he shall not be entitled to back wages for the period he remained out of service. The needful shall be done within eight weeks from today. The fresh order shall be passed after granting opportunity of hearing to the petitioner. At the first instance, petitioner would appear before Superintendent of Police, Rewari on 29.01.2026 at 11:00 AM and thereafter as directed by said Officer.

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

(JAGMOHAN BANSAL)
JUDGE

19.01.2026
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	