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

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CWP-11445-2012

Date of Decision: 18.08.2025

Mohinder Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Suvir Sidhu, Advocate,
Mr. G.S. Dhillon, Advocate for the petitioner
Mr. Ravi Pratap Singh, Deputy 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 orders dated 11.11.2011 and 08.11.2007.

2. On 07.02.2017, this Court passed the following order: -

“The petitioner has questioned the validity of the order dated 11.11.2011 (Annexure P-7) and order dated 8.11.2007 (Annexure P-5) by which the petitioner has been reverted from the post of Head Constable to that of Constable on the ground that the official respondents noticed that the petitioner had doubtful integrity for the period from 1993-94 and 1998-99.

Question for consideration in the present petition is whether service record is required to be examined as on the date of ad-hoc promotion of the petitioner to the post of Head Constable on 12.9.1991 or on the date of confirmation to the post of Head Constable on 31.1.1995 or not?



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During the course of arguments, it was noticed that the petitioner was also subjected to disciplinary proceedings which was ended in imposing the penalty of reversion and the same was subject matter before the appellate authority (IG) who had modified the penalty of reversion to that of stoppage of two future increments. Feeling aggrieved by the modification of penalty order, the petitioner is stated to have preferred a suit and suit was decreed in his favour and the same was affirmed by the appellate court as well as by this Court in RSA.

Having regard to above facts, it is noticed that the petitioner had been reverted due to doubtful integrity so also for lack of eligibility.

In this regard, concerned respondent is directed to file necessary affidavit by producing relevant order in particularly order of reversion dated 25.6.1999 and order dated 24.2.2000 on the next date of hearing.

List this matter on 3.3.2017.

A photocopy of this order be placed on the file of other connected case.”

3. The aforesaid order was followed by order dated 06.12.2017 which reads as: -

“By this petition the petitioner has challenged the orders dated 11.11.2011 (Annexure P-7) passed by the second respondent herein, i.e. the Director General of Police, Haryana, as also the order dated 08.11.2007, Annexure P-5, passed by the third respondent, i.e. the Inspector General of Police, Hissar Range. Coming to the order of the Inspector General of Police, Annexure P-5, a perusal thereof shows that the petitioner was promoted from the post of a Constable to that of a Head Constable on ‘ad hoc basis’ w.e.f. 12.09.1991, which promotion was “regularized” as an officiating promotion w.e.f. 31.01.1995, with the order actually passed on 15.02.2002.



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He is also stated to have been confirmed in the rank of a Head Constable w.e.f. 31.01.2003, vide an order passed on 12.05.2003, which as per the impugned order of the IGP, was an order passed without proper examination of his service record, because for the periods 01.04.1993 to 31.03.1994 and 24.04.1998 to 31.02.1999 remarks on his integrity being doubtful were entered in his Annual Confidential Reports.

It is further stated that a show cause notice was issued to him on 27.09.2007, as to why he be not deconfirmed in the rank of a Head Constable and demoted therefrom, to which notice he replied on 16.10.2007, stating therein that he had not concealed anything from the authority concerned and the entire process of promotion and confirmation had been initiated at the behest of the authorities after going through the entire record.

The petitioner also stated in that reply that the adverse remarks for the year 1993-1994 had never been conveyed to him and yet further, after his promotion w.e.f. 31.01.1995, the adverse remarks for the said period would be deemed to have been "wiped out." The IGP rejected all the three pleas raised by the petitioner except to the extent that at the time when his promotion was made nothing was kept concealed by him; but reiterating that the order of promotion having been passed despite his adverse record, it was an order which could always be rectified after complying with the principles of natural justice.

As regards the contention that the adverse remarks for the period 1993-1994 were not conveyed to him, that contention was rejected by the IGP, stating that they had in fact been conveyed to him vide a letter from the office of the SSP, Sirsa, dated 20.03.1996, with the receipt thereof on record.

As regards the contention that after his promotion the remarks for the said period, i.e. 1993-1994 would be deemed to have been wiped out, it has been stated in the impugned



order that since his promotion w.e.f. 31.01.1995 “was made inadvertently”, without proper examination of the service record, he should not have been so promoted, his integrity having been reported as doubtful in the said period, and therefore in fact he was also liable to be reverted to the rank of a Constable after his case for promotion to the post of an ‘officiating Head Constable’ was taken up. (Prior to that he having been promoted as a Head Constable only on adhoc basis only, as already noticed).

It had also been pleaded by the petitioner before the IGP that the orders dated 25.06.1999 by which he was reverted from the post of a Head Constable to Constable, as also the order dated 24.02.2000, by which the punishment of reversion was altered to stoppage of two annual increments with cumulative effect, were both challenged by the petitioner, alongwith the inquiry proceedings, before the learned Civil Court, which suit was decreed in favour of the petitioner vide a judgment of the learned Addl. Civil Judge (Sr. Division), Sirsa, dated 29.04.2005.

Hence, it was contended that on that count also the adverse remarks against the petitioner would be deemed to have been wiped out, as the charge framed against him in the departmental inquiry, was on the same basis as the adverse remarks recorded against him.

That plea was again rejected by the IGP, stating that the adverse remarks pertaining to integrity were recorded by the reporting officer on the basis of the overall assessment of the work of the petitioner during the period concerned, and not just on the basis of the charges framed against him in the departmental inquiry.

Yet further, it had been contended by the petitioner that the impugned show cause notice issued to him on 29.05.2007 was highly delayed, he having been promoted much earlier. The said plea was also rejected on the same



ground, that a mistake made could be rectified by adopting fair procedure.

Consequently, the contentions of the petitioner, as stated in his reply to the aforesaid show cause notice as to why he should not be deconfirmed in the rank of Constable and demoted, were rejected vide the aforesaid impugned order, though it was also stated that no recovery of pay paid on the higher post, would be made from him.

That order having been challenged by the petitioner before the Director General of Police, Haryana, by way of an appeal, it was dismissed vide the subsequent order which is also impugned, dated 11.11.2011 (Annexure P-7), essentially on the same reasoning and further stating therein that the remarks of doubtful integrity continued to exist in the ACRs for the periods 01.04.1993 to 31.03.1994 and 24.04.1998 to 31.03.1999.

Before this Court, learned counsel for the petitioner has strenuously argued that the orders earlier passed in the year 1999, first reverting the petitioner from the rank of a Head Constable to Constable and thereafter in appeal imposing a punishment of stoppage of two annual increments with cumulative effect, both having been challenged before the learned Civil Court, with the decree issued by that Court having become final upto this Court, a second order reverting the petitioner (vide the impugned order of the IGP), could not have been passed.

Though at first blush it is an argument which is not unworthy of consideration, however, having perused a copy of the judgment of the learned Civil Judge (which on directions has been given to this Court by learned counsel), it is seen that the suit of the petitioner, was one seeking a declaration that the orders dated 25.06.1999 and 24.02.2000 be set aside, on the ground that the inquiry proceedings culminating in the aforesaid orders were vitiated in terms of Rule 16.38 of the Punjab Police Rules, 1934 (as applicable to



the State of Haryana), as no sanction has been obtained from the District Magistrate before initiating the departmental inquiry, (on a cause of action that was essentially criminal in nature).

Neither in the judgment of the learned Civil Judge, nor in that of the learned Ist appellate Court (Additional District Judge, Sirsa), (dated 13.11.2007), is it seen that the actual charges against the petitioner were held to have not been proved, or that they were charges not sustainable on merit.

(Though a copy of the judgment and decree of the Civil Court is not on record, a copy thereof having been produced by learned counsel for the petitioner, it is retained as Mark 'A' to be annexed with the pleadings).

Consequently, as regards the contention of the petitioner that those judgments having become final and the orders impugned in the Civil Suit having been set aside by decree, the subsequent orders impugned in this petition are not maintainable, is found to be an argument without merit, because in the opinion of this Court the reasoning given in the impugned orders being that the remarks recorded in the ACR of the petitioner for the aforesaid two periods continuing to stand against him, showing therein his integrity to be doubtful, simply because the orders earlier issued on the same cause of action were set aside on different grounds, would not debar the competent authority to issue fresh orders by following due process of law.

This would be especially so in view of the fact that the adverse entries in the ACRs are stated to be based on serious charges, against a police official, which charges, to repeat, have not been touched upon on merits, by the civil Court.

The question that still however remains, is as to under what provision the IGP exercised jurisdiction to, first, issue the show cause notice dated 27.07.2007 (typographically having been misprinted as 27.07.2009 as submitted by the learned counsel for the petitioner, in Annexure P-3), and



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thereafter, and then to pass the impugned order, Annexure P-5, dated 08.11.2007.

Learned counsel for the respondents would take instructions as to under what provisions of the Punjab Police Rules the show cause notice was issued and the punishment orders passed.

Adjourned to 13.12.2017.

A photocopy of this order be placed on the file of the connected case.”

4. During the pendency of instant petition, the petitioner has retired on 31.08.2019 on attaining the age of superannuation. He has retired as Exemptee Assistant Sub-Inspector meaning thereby he was holding substantive rank of Head Constable at the time of retirement.

5. From the perusal of above quoted interim orders and arguments of both sides, it is evident that petitioner was promoted as *ad hoc* Constable in 1991 and he was assigned substantive rank in 1995. In the first round of litigation, he was reverted to the rank of Constable, however, Appellate Authority reduced quantum of punishment, resultantly, his rank was restored. This order was set aside by Civil Court and finally confirmed by this Court in Regular Second Appeal. In 2007, the respondent started another set of litigation whereby petitioner was again reverted to the rank of Constable. He was again promoted as Exemptee Head Constable w.e.f. 30.05.2014 and Exemptee Assistant Sub-Inspector on 02.08.2019.

6. As petitioner has retired; first order of reversion was set aside; second order of reversion, without any plausible explanation of delay, was passed in 2007 i.e. after a decade from the date of his promotion; there was no adverse Annual Confidential Report ('ACR') at the time of *ad hoc*

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promotion made in 1991 and he was reverted on account of adverse ACRs of April' 1993 to March' 1994 and April' 1998 to March' 1999, this Court finds it appropriate to set aside impugned orders dated 11.11.2011 and 08.11.2007.

7. In the wake of above discussion and findings, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed with all consequential benefits.

(JAGMOHAN BANSAL)
JUDGE

18.08.2025*Mohit Kumar*

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