

(1965) 10 P&H CK 0030

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 276 of 1962

Inspector General of Police Punjab, and Another

APPELLANT

Vs

Hardial Singh

RESPONDENT

Date of Decision : 11-10-1965

Acts Referred:

Citation : (1965) 10 P&H CK 0030

Hon'ble Judges : P.C. Pandit, J; Mehar Singh, J

Bench : Division Bench

Advocate : M.S. Punnu, Deputy A.G, for the Appellant;

Final Decision : Dismissed

Judgement

Mehar Singh, J.—The respondent, Hardial Singh, having been recruited Foot Constable on January 1, 1933, in the Punjab Police, was promoted Head Constable and was then confirmed in that rank sometime in 1945. On July 16, 1948, he was appointed officiating Assistant Sub-Inspector of Police and on March 1, 1950, officiating Sub-Inspector of Police by the Deputy Inspector-General, C. I. D. He was reverted, not as a punishment but on account probably of departmental exigencies to the post of officiating Assistant Sub-Inspector of Police on April 29, 1955, by the Superintendent of Police at Rohtak, who again promoted him on November 23, 1956, as officiating Sub Inspector of Police. Subsequently, on February 19, 1959, the Superintendent of Police at Simla again reverted the respondent to the post of Assistant Sub-Inspector of Police, from which post he was ultimately dismissed on March 26, 1960, by the Superintendent of Police at Rohtak. the dismissal was ordered after an enquiry into charges of misconduct which were said to have been found to be proved.

2. In a petition under Article 226 of the Constitution one of the grounds, on which the respondent assailed the order of his dismissal, was that it contravened Article 311 (1) of the Constitution because he had been dismissed by an authority lower in rank than the one by which he had been appointed, and this

ground has prevailed with the learned Single Judge, who has by his judgment of May 7, 1962, accepted the petition of the respondent and quashed the order of his dismissal. It is against that judgment that the Inspector-General of Police and the Punjab Government, appellants, have filed an appeal under clause 10 of the Letters Patent.; There is no dispute in regard to facts.

3. On the date of his dismissal, that is to say, March 26, 1960, the respondent was an officiating Assistant Sub-Inspector of Police, to which post he had been appointed by the Deputy Inspector-General of Police, C. I. D. on July 16, 1948. Obviously the approach of the learned Single Judge is unexceptional that in such circumstances the dismissal could only have been by an order of the Deputy Inspector-General of Police and not by an order of his subordinate such as a Superintendent of Police. The learned counsel for the appellants, however, contends that once the respondent was reverted from the post of officiating Sub-Inspector of Police by the Superintendent of Police at Rohtak on April 29, 1955, and then he was promoted by the same officer to be an officiating Sub-Inspector of Police on November 23, 1956, followed by a second reversion to the post of Assistant Sub-Inspector of Police on February 19, 1959, by the Superintendent of Police at Simla, it must be held that officiating post of Assistant Sub-Inspector of Police that the respondent held on March 26, 1960, was the one to which he was appointed by the Superintendent of Police. The learned counsel explains that once the respondent was demoted by an order of the Superintendent of Police to the post of officiating Assistant Sub-Inspector of Police and was then promoted to the post of officiating Sub-Inspector of Police, the post of officiating Assistant Sub-Inspector of Police ceased to exist and the Respondent ceased to have any connection with any such post. This argument misconceived. The respondent while officiating as Sub-Inspector of Police still had a lien on the post of officiating Assistant Sub-Inspector of Police, to which post he had been appointed by the Deputy Inspector-General of Police, and from which post he could not be dismissed by an authority subordinate to the one appointing him. So that this argument on the side of the appellants is without substance.

4. The appeal fails and is dismissed, but there is no order in regard to costs.

P.C. Pandit, J.

I agree.