
(1995) 05 P&H CK 0117
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3164 of 1991

Karam Singh

APPELLANT

Vs

The State of Punjab and Another

RESPONDENT

Date of Decision : 11-05-1995

Acts Referred:

Punjab Police Rules, 1934 — Rule 163

Citation : (1995) 110 PLR 446

Hon'ble Judges : V.K. Jhanji, J

Bench : Single Bench

Advocate : H.S. Mann, for the Appellant; S.K. Bhanot, D.A.G., for the Respondent

Final Decision : Dismissed

Judgement

V.K. Jhanji, J.—In this petition under Article 226 of the Constitution of India, petitioner is seeking a writ in the nature of certiorari quashing order dated 20.6.1988 (Annexure P-3) of Commandant, 7th Batallion, Punjab Armed Police, Jalandhar Cantt, whereby the petitioner was dismissed from service under the provisions of Rule 16.2.(2) of Punjab Police Rules (in short, the Rules), and also a writ in the nature of Mandamus directing the respondents to reinstate the petitioner and give all arrears of pay and allowances.

2. Petitioner joined service of police department as a Constable. In the year 1986 the petitioner was involved in a cast; u/s 302/323/34 I.P.C., as a consequence of which he was placed under suspension. On completion of trial, the learned additional Sessions Judge, Amritsar vide his judgment dated 4.5.1988 convicted and sentenced the petitioner u/s 302/34, 324/34 and 323 IPC. Consequent to his conviction and sentence, petitioner was dismissed from service w.e.f. 4.5.1988 under the provisions of Rule 16.2.(2) of the Rules. Petitioner preferred Criminal Appeal No. 187-D8 of 1988 against his conviction and sentence. He was acquitted of offence u/s 302/324/34 IPC. However, his conviction u/s 323 IPC was maintained. The sentence awarded to him u/s 323 IPC was set aside and

instead he was directed to be released on probation on his furnishing a bond and surety in the sum of Rs. 2000/- undertaking to keep peace and be of good behaviour for a period of two years. Before the expiry of period of good conduct, petitioner moved this writ petition under Article 226 of the Constitution challenging his dismissal from service.

3. The only argument raised by learned counsel for the petitioner is that the punishing Authority was bound to review the case of the petitioner under Rule 16.2 of the Rules when subsequent to his conviction he was released on probation in appeal. Counsel thus contended that case of the petitioner having not been reviewed, order of dismissal deserves to be quashed.

4. Having heard the learned counsel, I am of the view that there is no merit in the petition. It has authoritatively been held by the Apex Court in *Union of India and others Vs. Bakshi Ram*, that in criminal trial the conviction is one thing and sentence is another. The Court while invoking the provisions of Section 3 or 4 of the Probation of Offenders Act, 1958 does not deal with the conviction. It only deals with the sentence which the offender has to undergo. Instead of sentencing the offender, the Court releases him on probation of good conduct. The conviction, however, remains untouched and the stigma of conviction is not obliterated. In the departmental proceedings the delinquent could be dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge. The case of the petitions cannot be reviewed under Rule 16.3 of the Rules which provides for an action following on a judicial acquittal. Petitioner has not been acquitted but his conviction has been maintained and he has only been ordered to be released on probation. It is worth-noticing that the petitioner has approached this Court before expiry of his period of probation.

5. Accordingly, there being no merit in the petition, the same shall stand dismissed. No costs.