
(2015) 07 P&H CK 0230

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 24228 of 2012 (O&M)

Mahender Singh

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 02-07-2015

Acts Referred:

Arms Act, 1959 — Section 27
Penal Code, 1860 (IPC) — Section 323, 324

Citation : (2015) 179 PLR 724

Hon'ble Judges : Ajay Tewari, J

Bench : Single Bench

Advocate : Ashwani Talwar, for the Appellant; Shruti Goel, A.A.G., Advocates for the Respondent

Final Decision : Dismissed

Judgement

Ajay Tewari, J—The petitioner has challenged the order of dismissal dated 5.6.2003 (Annexure P-1) passed against him. Brief facts are that the petitioner was working as Head Constable in the Haryana Police and was ultimately convicted in an offence under Section 324 of the IPC and Section 27 of the Arms Act and was released on probation by this Court.

2. Counsel for the petitioner has argued that the offence did not involve moral turpitude and, therefore, he should not have been visited with extreme penalty of dismissal.

3. Counsel for the respondents has relied upon rule 16.2(2) of the Punjab Police Rules, 1934, which is to the following effect:--

"16.2. Dismissal.--

"(1) x xx xx xx

(2) If the conduct of an enrolled police officer leads to his conviction on a criminal charge and he is sentenced to imprisonment, he shall be dismissed:

Provided that a punishing authority may, in an exceptional case involving manifestly extenuating circumstances for reasons to be recorded and with the prior approval of the next higher authority impose any punishment other than that of dismissal:

Provided further that in case the conviction of an enrolled police officer is set aside in appeal or revision, the officer empowered to appoint him shall review his case keeping in view the instructions issued by the Government from time to time in this behalf."

4. As per counsel for the respondents, even though the petitioner was not guilty of an offence involving moral turpitude but the rule as applicable to the police department does not envisage that a person should have been convicted of an offence involving moral turpitude and this is the main difference between the rules relating to the police officials and the other government servants. A reading of the rule (supra) does support this conclusion. She has further relied upon the decision of the Hon'ble Supreme Court in Karam Singh Vs. State of Punjab and another, (1996) 2 AD 170 : AIR 1996 SC 3159 : (1996) 1 CTC 358 : (1996) 2 JT 382 : (1996) LabIC 1272 : (1996) 2 SCALE 211 : (1996) 7 SCC 748 : (1996) 1 SCR 1030 : (1996) 1 UJ 727 . In the said case also, a police officer was convicted under Section 323 of the IPC and was released on probation. He sought reinstatement but the Court declined the prayer.

5. No other point has been raised by counsel for the petitioner. I find that the facts in Karam Singh case (supra) are applicable to the facts of the present case. In the circumstances, no relief can be granted to the petitioner and consequently, the present writ petition is dismissed.