

CWP-18056-2021 (O&M)
and other connected matter

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2023:PHHC:157233

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

116+209

CWP-18056-2021 (O&M)
Date of Decision : 08.12.2023

HARMEET LAL

..... PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

..... RESPONDENTS

2.

CWP-1948-2022

HARMINDER SINGH

..... PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Balbir K.Saini, Advocate
for the petitioner in CWP-18056-2021.

Mr.Sandeep Bansal, Advocate
for the petitioner in CWP-1948-2022.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. By this common order, CWP-18056-2021 and CWP-1948-2022 are disposed of as issue involved in both the petitions is common. For the sake of convenience, the facts are borrowed from CWP-18056-2021.

2. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking setting aside of order dated 24.06.2011 (Annexure P-2) whereby he was dismissed from service; order dated

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06.08.2013 (Annexure P-4) whereby his appeal was dismissed and order dated 14.01.2021 (Annexure P-12) whereby his mercy petition was dismissed.

3. The petitioner joined Punjab State Police on 14.08.1992. An FIR No.64 dated 15.04.2011, under Sections 120B, 420, 465, 467, 468, 471 of IPC came to be registered against various private persons and police officials. During the course of investigation, vide Rapat No.57 dated 01.05.2011, Section 16 of the Unlawful Activity (Prevention) Act, 1967 and Prevention of Money Laundering Act, 2002 was added. The FIR was registered alleging that petitioners in connivance with others have sold arms and ammunition to naxalites. The respondent-department initiated departmental proceedings besides criminal proceedings against the petitioner and others. The petitioner came to be dismissed vide order dated 24.06.2011. The petitioner unsuccessfully preferred an appeal as well as mercy petition before higher authorities. The mercy petition was dismissed on 18.01.2021 and the petitioner came to be acquitted by trial Court vide judgment date 30.11.2019.

4. It is apt to notice here that the SSP invoked Unlawful Activities (Prevention) Act, 1967 and Prevention of Money Laundering Act, 2002 without ascertaining even the complete title of these Acts as well as the scope of invoking these Acts. These are special Acts and cannot be invoked by writing a letter by SSP. This shows that on the one hand, there were serious allegations against the erring police officials and on the other hand, a casual approach was adopted which resulted into acquittal of the officials. Apart from invoking UAPA and PLMA, provisions of Arms Act, 1959 were invoked.

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5. It is apt to notice here that as noticed in order dated 11.11.2016 passed by IGP, Bathinda, the charges under Section 16A of Unlawful Activities (Prevention) Act, 1967 and PMLA, 2002 were dropped by Sessions Judge, Mansa vide order dated 08.12.2015 which led to trial by CJM.

6. The trial Court vide judgment dated 30.11.2019 acquitted all the accused from charges framed under Sections 120B, 420, 465, 467, 468, 471 of IPC and vide even dated judgment, acquitted all the accused from charge under Section 25 of Arms Act.

7. Learned counsel for the petitioner submits that a number of police officials were charged with the same set of allegations and they were jointly tried by CJM, Mansa. The petitioners have not been reinstated, however, co-accused namely C. Sukhbir Singh, HC Jodh Singh, HC Surjit Singh and HC Manjit Singh, after their acquittal have been reinstated. There are two co-accused who have passed away during the pendency of trial and their family members have been extended benefit of family pension.

8. Learned State counsel expressed his inability to controvert the fact that the petitioners have already been acquitted from criminal charges and co-accused have been reinstated with consequential benefits. He further submits that benefit to co-accused has been extended in terms of Rule 16.3 of Punjab Police Rules, 1934.

9. From the statements of both sides, it comes out that the petitioners on the same set of allegations were subjected to departmental as well as criminal proceedings. They were subjected to these proceedings along with other police officials. All the police officials were subjected to

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same punishment in the departmental proceedings and all the police officials have been acquitted in the criminal proceedings. Few of police officials after their acquittal have been reinstated.

10. In the wake of aforesaid facts and statements of counsel for the parties, the respondents are directed to re-consider case of the petitioners in the light of Rule 16.3 of Punjab Police Rules, 1934 as well as orders of reinstatement passed in the case of other police officials who were accused along with the petitioner in the departmental as well as criminal proceedings. The needful shall be done within three months from today.

08.12.2023
anju

(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>