

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP-1899-2020 (O&M)

Date of Decision: 22.08.2023

Lalit Kumar ...Petitioner

Versus

State of Punjab & others ...Respondents

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present: Mr. Dhiraj Chawla, Advocate, for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

**GURVINDER SINGH GILL, J. (Oral)**

1. The petitioner assails order dated 10.10.2005 (Annexure P-1) vide which the petitioner's father, who was serving as a Constable, had been dismissed from service while invoking Article 311(2)(B) of the Constitution of India, as the petitioner's father had been involved in FIR No.231 dated 08.10.2005 registered at Police Station Civil Lines, Amritsar, under Sections 376-A, G, 342, 323, 506, 120-B IPC. The petitioner also assails order dated 30.04.2019 (Annexure P-6) vide which an appeal filed by the petitioner's mother, namely, Raj Rani (widow of late Mohan Lal) against the dismissal order of her husband has been rejected.
2. A few facts necessary to notice are that the petitioner's father was appointed as Constable in the year 1992. While in service, he came to be involved in FIR No.231 dated 08.10.2005 alongwith some other co-

- accused. Just 2 days after the lodging of said FIR, the services of the petitioner's father were terminated while invoking provisions of Article 311(2)(B) of the Constitution of India. The petitioner's father was tried by the Court of Additional Sessions Judge, Amritsar and was held guilty for an offence under Section 120-B IPC for having conspired to commit crime in respect of the said FIR. The petitioner's father challenged the conviction recorded by the Court of Additional Sessions Judge, Amritsar by way of filing a criminal appeal i.e. CRA-693-SB-2010 before this Court, which was allowed and the petitioner's father was acquitted of the charges framed against him vide judgment dated 09.04.2010 (Annexure P-3) rendered in CRA-DB-2009 titled 'Sukhdev Singh @ Raj Vs. State of Punjab' being lead case. Although the State had preferred SLP (Criminal) before Hon'ble the Supreme Court, but the same was dismissed in *limine* on 23.02.2018. However, during the pendency of the aforesaid SLP, Constable Mohan Lal i.e. petitioner's father expired on 08.08.2016.
3. Pursuant to dismissal of SLP filed by the State, the petitioner's mother had moved an application seeking reinstatement of her husband and also sought compassionate appointment. A copy of application (Annexure P-5) seeking compassionate appointment has been annexed with the petition. It was, thereafter, that impugned order dated 30.04.2019 (Annexure P-6) came to be passed by the DGP, wherein the order is said to be passed on an appeal filed by petitioner's mother against the dismissal of the petitioner's father and the said appeal has been

dismissed, while observing that an appeal filed by petitioner's father had already been considered and dismissed by DIG and IG on 07.08.2007 & 08.11.2007 respectively.

4. Learned counsel for the petitioner has submitted that the petitioner's father having been acquitted in respect of the charges framed against him pursuant to FIR No.231 dated 08.10.2005 and there being nothing else adverse against him, the petitioner's father deserves to be reinstated into service notionally and all consequential benefits flowing from such reinstatement ought to be extended to the family of the deceased including the benefit of appointment on compassionate ground.
5. Learned counsel has further submitted that the impugned order dated 30.04.2019 (Annexure P-6) had not taken into account the grounds of acquittal and is rather in the nature of a non speaking order. It has been submitted that as a matter of fact this Court while acquitting the petitioner's father has observed in unambiguous terms that he has been falsely implicated by a senior police officer, who wanted to grab a property in Mohali i.e. H.No.120, Phase 2, Mohali. It has been submitted that in such circumstances, where there are findings of this Court to the effect that the petitioner's father had been falsely implicated, the impugned order of dismissal of the petitioner's father dated 10.10.2005 (Annexure P-1) and also the order dated 30.04.2019 (Annexure P-6), stated to be passed in appeal, cannot sustain and deserve to be set aside.
6. On the other hand, learned State counsel has submitted that since the petitioner's father had been involved in a case of heinous nature, the

mere fact that the petitioner's father came to be acquitted cannot be *ipso facto* entail reinstatement. Learned State counsel has further submitted that in any case once an appeal filed by the deceased against his order of termination had been rejected, there was no occasion for his widow to file another appeal, which has correctly been dismissed vide impugned order dated 30.04.2019 (Annexure P-6). Learned State counsel has submitted that under the given circumstances no case either for reinstatement or for extending any financial benefits or for compassionate appointment is made out. In order to hammer forth his contention, learned State counsel places reliance upon a judgment reported as Jai Narain Vs. State of Haryana & others, 2023 (1) PLR 527.

7. This Court has considered rival submissions addressed before it.
8. While it can be said that an employee, who is dismissed on account of pendency of a criminal case, is not entitled to be reinstated as of a right in every case of acquittal, however, it is the circumstances under which the offence allegedly came to be committed or the reasons for his acquittal, which would need to be examined. In the present case, this Court finds that the Division Bench of this Court in CRA-342-DB-2009, while acquitting all the accused/appellants including the petitioner's father, had recorded findings as regards false implication in unambiguous terms, which are reproduced hereinunder:

“For the reasons recorded above, all the five appeals are allowed. The impugned judgment of conviction and order of sentence is set aside. Accordingly, appellants Sukhdev Singh @ Raj, Sahib Singh @ Sahbi, Arjan Singh, Balbir Singh, Mohan Lal and Nishan Singh, who are in

custody, are acquitted of the charges and they be set at liberty forthwith, if not required in any other case.

Before parting with the judgment, we want to point out that kothi No.120, Phase-2, Mohali was the root cause of false implication of the appellants. Above said kothi was purchased by one high rank police officer. Prosecutrix failed to name the police officer to whom kothi No.120, Phase-2, Mohali was sold. Copy of the judgment is ordered to be sent to DGP, Punjab to appoint responsible officer not below the rank of IPS officer to make enquiry into the matter as to whether kothi No.120, Phase-2, Mohali was sold to any high rank police officer or not. Enquiry is to be completed within three months. If the kothi was purchased by any police officer then to enquire whether kothi was purchased after obtaining permission from the competent authority. In case, kothi was purchased without obtaining permission of the competent authority then to take action as per law with intimation to the High Court.”

9. The aforesaid findings reflect that the petitioner’s father had been falsely implicated. The same was done in an attempt to grab a property while exercising undue influence and power by the senior police officer. Having regard to the factum of acquittal of the petitioner’s father and the aforesaid observations, as recorded by the Division Bench of this Court, which have attained finality inasmuch as even the SLP against the said judgment stands dismissed, it goes without saying that the petitioner’s father was dismissed from service on account of no fault on his part and the reasons which had weighed at that time were not justified and had also been found to be falsely created.
10. As far as the judgment relied upon by the learned State counsel in *Jai Narain’s* case (supra) is concerned, that was a matter where a government employee, who had been involved in a case of corruption,

- came to be acquitted when witnesses turned hostile and this Court while taking the said fact into account, observed that in such cases, the acquittals cannot be said to be on merit and the employee was held not entitled to reinstatement. The facts of the said case are entirely different from the present case inasmuch as in the present case, there is a clear and categorical finding by a Division Bench of this Court to the effect that the petitioner's father had been falsely implicated.
11. In view of the aforesaid discussion, the impugned orders dated 10.10.2005 (Annexure P-1) and 30.04.2019 (Annexure P-6) cannot sustain and are hereby set aside. As a result, the petitioner's father is deemed to have been reinstated into service.
  12. Having regard to the nature of the case i.e. the petitioner's father having been falsely implicated for dubious and motivated reasons, the respondents are directed to reinstate the petitioner's father with full back-wages and to extend other consequential benefits flowing from such reinstatement to the family within a period of 4 months from today.
  13. As far as the prayer of the petitioner for grant of compassionate appointment is concerned, the respondents shall be at liberty to take an independent decision in the matter without being influenced in any manner by the observations made above and in the light of the prevalent policies including the economic condition of the family at that time.
  14. Petition stands accepted accordingly.

22.08.2023

Vimal

(GURVINDER SINGH GILL)

JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No