

Company: Sol Infotech Pvt. Ltd.

Website: www.courtkutchehry.com

Printed For:

Date: 25/10/2025

Baljit Singh Constable Vs State of Punjab and Others

Regular Second Appeal No. 79 of 2009

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Feb. 7, 2011

Acts Referred:

Arms Act, 1959 â€" Section 27#Penal Code, 1860 (IPC) â€" Section 307, 397#Punjab Police

Rules, 1934 â€" Rule 16.3

Citation: (2011) 162 PLR 750

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

L.N. Mittal, J.

This is second appeal by Plaintiff Baljit Singh Constable having failed in both the courts below. The Plaintiff, who is

Constable in Punjab Police, was tried for offences under Sections 307 and 397 of the Indian Penal Code and Section 27 of the Arms Act in FIR

No. 289 dated 05.09.1997 of Police Station Sadar Jalandhar. However, since the prosecution witnesses: turned hostile in that case, the Plaintiff

was acquitted vide judgment dated 14.07.1999 passed by learned Additional Sessions Judge, Jalandhar. Thereafter, Defendant-Respondent No.

3 - Senior Superintendent of Police, Jalandhar initiated disciplinary proceedings against the Plaintiff. Inquiry Officer, however, exonerated the

Plaintiff. Defendant No. 3 - disciplinary authority did not agree with the finding of the Inquiry Officer and served show cause notice dated

26.06.2000 on the Plaintiff stating therein reasons for disagreeing with the finding of the Inquiry Officer and also requiring the Plaintiff to show

cause as to why punishment of stoppage of two annual Increments with cumulative effect be not imposed on him. The Plaintiff submitted his reply

to the show cause notice. Defendant No. 3, vide order dated 06.09.2000, imposed punishment of stoppage of one annual increment with

cumulative effect on the Plaintiff. The said punishment was upheld in appeal by Defendant No. 4 (Deputy Inspector General of Police) vide order

dated 09.02.2001 and in revision by Defendant No. 5 (Inspector General of Police) vide order dated 10.05.2001. The Plaintiff in the suit

challenged the said order being null and void etc. and sought mandatory injunction directing the Defendants to grant all consequential benefits with

interest.

2. Defendants defended the impugned punishment order, as upheld in appeal and revision. Grounds to challenge the same, as pleaded by the

Plaintiff, were controverted by the Defendants. Various other pleas were also raised.

3. Learned Civil Judge (Junior Division), Jalandhar, vide judgment and decree dated 09.03.2006, dismissed the Plaintiff's suit. First appeal

preferred by the Plaintiff has been dismissed by learned Additional District Judge, Jalandhar, vide judgment and decree dated 03.05.2008. Feeling

aggrieved, the Plaintiff has preferred the instant second appeal.

- 4. I have heard learned Counsel for the parties and perused the case file.
- 5. Learned Counsel for the Appellant referred to Rule 16.3 of the Punjab Police Rules and contended that the Plaintiff could not be proceeded

against departmentally after being acquitted in the criminal case on the same allegations. However, this contention cannot be accepted because

Clause (b) of Rule 16.3(1) of the Punjab Police Rules provides exception, where, in the opinion of Superintendent of Police, the prosecution

witnesses have been won over, the police official can be proceeded against departmentally also on the same charge. In the instant case, the

prosecution witnesses turned hostile and therefore, Senior Superintendent of Police - Defendant No. 3, holding that the witnesses had been won

over by the Plaintiff, decided to proceed departmentally against the Plaintiff. Consequently, disciplinary action initiated by Defendant No. 3 is not

vitiated and is not in contravention of Rule 16.3 of the Punjab Police Rules.

6. Learned Counsel for the Appellant emphatically contended that while disagreeing with the finding of the Inquiry Officer, Defendant No. 3 should

have recorded tentative finding giving reasons for the same and should have given opportunity of hearing to the Plaintiff to show cause against the

proposed disagreement with the finding of the Inquiry Officer, but in this case, disciplinary authority straightway arrived at its own finding while

disagreeing with the finding of the Inquiry Officer and issued show cause notice dated 26.06.2000 tentatively proposing the punishment of

stoppage of two annual increments with cumulative effect, and therefore, principles of natural justice have not been complied with regarding

disagreement with the finding of the Inquiry Officer, and consequently, the punishment imposed on the Plaintiff is vitiated. Reliance in support of this

contention has been placed on judgment of Hon"ble Supreme Court in the case of Punjab National Bank and Ors. v. Sh. Kunj Behari Misra 1998 (3) RSJ 640.

7. On the other hand, learned Counsel for Respondents contended that by issuing show cause notice dated 26.06.2000, necessary opportunity of

hearing was granted to the Plaintiff and therefore, punishment order is not vitiated.

8. I have carefully considered the rival contentions. In the show cause notice dated 26.06.2000, Defendant No. 3 - disciplinary authority recorded

reasons for his disagreement with the finding of the Inquiry Officer and also proposed punishment of stoppage of two annual increments with

cumulative effect and required the Plaintiff to show cause against the same. It is correct that vide aforesaid show cause notice, the Plaintiff was

specifically not required to show cause against disagreement of Defendant No. 3 with the finding of the Inquiry Officer. However, composite show

cause notice regarding dis-agreement with the finding of the Inquiry Officer and regarding proposed penalty was served on the Plaintiff and copy of

Inquiry Report was also enclosed therewith. The Plaintiff submitted his reply to the show cause notice, wherein he also challenged the disagreement

of Defendant No. 3 with the finding of the Inquiry Officer. It is thus manifest that the Plaintiff got opportunity of hearing to show cause not only

against the proposed penalty, but also against disagreement of Defendant No. 3 with the finding of the Inquiry Officer. In other words, requirement

of principles of natural justice has been substantially complied with in the instant case. The Plaintiff put forward his case in reply to the show cause

notice and the same was duly considered by Defendant No. 3 - the disciplinary authority as well as by appellate and revisional authority. In this

view of the matter, it cannot be said that the punishment order has been vitiated by noncompliance with principles of natural justice. On the

contrary, principle of law laid down in the case of Punjab National Bank and Ors. v. Sh. Kunj Behari Misra (supra) has been substantially

complied with. It may be added that in the said case, the question related to interpretation of relevant Regulation of the Appellant bank, which did

not provide for opportunity of hearing to the delinquent, while the disciplinary authority disagreed with the finding of the Inquiry Officer. It was in

this context that the Hon"ble Supreme Court observed that opportunity of hearing was required to be given to the delinquent before arriving at final

finding disagreeing with the finding of the Inquiry Officer. In the instant case, by serving composite show cause notice recording reasons for

disagreeing with the finding of the Inquiry Officer and proposing penalty of stoppage of two annual increments with cumulative effect, principles of

natural justice were substantially complied with and therefore, the impugned punishment order, as upheld in appeal and revision, cannot be said to

be vitiated in any manner.

9. For the reasons aforesaid, I find no merit in the instant second appeal. Accordingly, the appeal is hereby dismissed.