

**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH**

ORDERS PRONOUNCED ON: 14.08.2018
(ORDERS RESERVED ON: 31.07.2018)

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. P. GOPINATH, MEMBER (A).**

(I) **O.A.NO.060/01075/2015**

Ex. Constable Himmat Singh No. 4950/CP Aged 26 years S/o Sh. Satish Kumar, R/o VPO Dhani Kolana, District Rewari, Haryana.

... APPLICANT

By: **MR. D.R.SHARMA, ADVOCATE.**

VERSUS

1. Union Territory, Chandigarh Administration, Chandigarh through Administrator, U.T. Civil Secretariat, Sector 9, Chandigarh.
2. Inspector General of Police, Union Territory, Chandigarh Police Headquarters, Additional Deluxe Building, Sector 9-D, Chandigarh.
3. Deputy Inspector General of Police, Union Territory, Chandigarh Police Headquarters, Additional Deluxe Building, Sector 9-D, Chandigarh.
4. Senior Superintendent of Police, Union Territory, Chandigarh Police Headquarters, Additional Deluxe Building, Sector 9-D, Chandigarh.

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RESPONDENTS

By: **MR. MUKESH KAUSHIK, ADVOCATE.**

(II) **O.A.NO.060/01076/2015**

Ex. Constable Akshay Kumar, Aged 26 years No. 5202/CP, S/o Sh. Sobh Ram, R/o Village Saragthal, Tehsil Gohana, District Sonapat, Haryana.

... APPLICANT

By: **MR. RANVIJAY SINGH, ADVOCATE FOR
MR. MANJEET SINGH, ADVOCATE.**

VERSUS

1. Union Territory, Chandigarh Administration, Chandigarh through Administrator, U.T. Civil Secretariat, Sector 9, Chandigarh.
2. Inspector General of Police, Union Territory, Chandigarh Police Headquarters, Additional Deluxe Building, Sector 9-D, Chandigarh.

3. Deputy Inspector General of Police, Union Territory, Chandigarh Police Headquarters, Additional Deluxe Building, Sector 9-D, Chandigarh.

4. Senior Superintendent of Police, Union Territory, Chandigarh Police Headquarters, Additional Deluxe Building, Sector 9-D, Chandigarh.

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RESPONDENTS

By: MR. MUKESH KAUSHIK, ADVOCATE.

(III) **O.A.NO.060/01077/2015**

Ex. Constable Sunil Kumar, Aged 23 years No. 4973/CP, S/o Sh. Tara Chand, R/o Village Dhani Gujjar Majra, Tehsil Hansi, District Hisar, Haryana.

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APPLICANT

By: MR. D.R. SHARMA, ADVOCATE.

VERSUS

1. Union Territory, Chandigarh Administration, Chandigarh through Administrator, U.T. Civil Secretariat, Sector 9, Chandigarh.

2. Inspector General of Police, Union Territory, Chandigarh Police Headquarters, Additional Deluxe Building, Sector 9-D, Chandigarh.

3. Deputy Inspector General of Police, Union Territory, Chandigarh Police Headquarters, Additional Deluxe Building, Sector 9-D, Chandigarh.

4. Senior Superintendent of Police, Union Territory, Chandigarh Police Headquarters, Additional Deluxe Building, Sector 9-D, Chandigarh.

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RESPONDENTS

By: MR. MUKESH KAUSHIK, ADVOCATE.

(IV) **O.A.NO.060/01110/15**

Anil Kumar Son of Sh. Sugan Chand aged 26 years resident of House No. 2174, Pipli Wala Town, Manimajra, Chandigarh (Group 'C').

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APPLICANT

By: NONE.

VERSUS

1. Chandigarh Administration through its Home Secretary, U.T. Secretariat, Sector-9, Chandigarh.

2. Senior Superintendent of Police, Police Department U.T. Chandigarh, Sector 9, Police Hqtrs, Chandigarh.

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RESPONDENTS

BY: MR. MUKESH KAUSHIK, ADVOCATE.

O R D E R
HON'BLE MR. SANJEEV KAUSHIK , MEMBER (J)

1. Initially, all these four Original Applications (OAs) were dismissed by a common order dated 16.12.2016. The applicants approached the Hon'ble Jurisdictional High Court by filing a bunch of Civil Writ Petitions No.1565 of 2017 (O&M) etc. which were disposed of on 31.1.2017, permitted the applicants to withdraw the Writ Petitions, with liberty to file Review Applications, on the short premise that they were having information under RTI Act, 2005, that order of discharge from service was actually based upon an incident relating to a criminal case, upon which there was no independent application of mind by the Competent Authority . Thereafter, the applicants filed four Review Applications, in these cases. Considering their persistent plea that they had some new grounds to raise on the basis of some information gathered under the Right to Information Act, 2005, and with a view to afford them full opportunity, the same were allowed and order dated 16.12.2016 was recalled and then matter was posted for hearing on merits. That is how, we are once again seized of these O.As.

2. The commonness of facts and law, allows us to have a joint hearing and dispose of all these four cases by a single order, as is also agreed to by the learned counsel for the parties. In O.A. No. 060/01110/2015 – **ANIL KUMAR VS. U.T. CHANDIGARH ETC.**, none appeared for the applicant despite pass over. So, we heard the learned counsel for respondents and examined pleadings on file, proceeding under rule 15 of C.A.T (Procedure) Rules, 1987.

However, for the facility of reference, facts and grounds are being extracted from O. A. No.060/01075/2015 – titled **HIMMAT SINGH VS. U.T. CHANDIGARH ETC.**

3. In this O.A. filed under section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order dated 20.12.2013 (Annexure

A-1) whereby he has been discharged from service in exercise of power under rule 12.21 of Punjab Police Rules, 1934; order dated 6.4.2015 (Annexure A-2), vide which the representation dated 29.1.2014 filed by the applicant for reinstatement in service has been rejected, and also order dated 16.10.2015 (Annexure A-3) vide which his representation dated 12.6.2015, for reinstatement in service, on acquittal in the criminal case, which was the basis for discharging him from service, has been rejected on the ground that there was no provision for considering a representation, after discharge of an employee from service, in exercise of power under rule 12.21 of Punjab Police Rules, 1934.

4. The solitary question that was raised at the hands of the applicants is, as to whether, by invoking the mandatory provisions of rule 12.21 of the Punjab Police Rules, 1934, services of a Probationer Police Constable can be terminated, by passing a simpliciter order, without holding an enquiry or not?

5. The facts, which led to filing of the O.A. can be summed up in few lines. The applicant was initially enrolled as a Constable in Chandigarh Police on 1.5.2011, after undergoing an open selection. He was allotted Constabulary No. 4950/CP. He was put on probation period, according to the rule formulation. However, he was involved in a criminal case, relating to molestation and rape of a minor girl, in FIR No. 507 dated 19.12.2013, in Police Station, Sector 11, Chandigarh, under sections 341, 343, 354, 376D, 506, 120-B of IPC and Sections 6 and 12 of the Protection of Children from Sexual Offences Act, 2012. On account of this criminal case, the applicant was arrested on the same day and placed under suspension. The Senior Superintendent of Police, U.T. Chandigarh (Disciplinary Authority), in exercise of powers under rule 12.21 of the Punjab Police Rules, 1934, issued order dated 20.12.2013 (Annexure A-1), discharging the applicant from service. Aggrieved against the said order the applicant preferred a

representation on 29.1.2014, which was rejected vide order dated 6.4.2015 (Annexure A-2).

6. The case of the applicant further proceeds that meanwhile, the criminal case filed against the applicant was decided by Court of Additional Sessions Judge-cum-Judge Special court, Chandigarh vide order dated 11.11.2014 (Annexure A-4) and the applicant was acquitted of the charges, by giving him benefit of doubt. The applicant submitted a representation dated 12.6.2015 (Annexure A-5), after his acquittal in the criminal case, placing reliance upon **G.M. TANK VERSUS STATE OF GUJARAT**, JT 2006 (11) SC 36, praying that he be reinstated in service. However, it was turned down by respondent no.2, vide order dated 16.10.2015 (Annexure A-3), holding that there is no rule or provision to file an appeal against an order passed under rule 12.21 of the Punjab Police Rules, 1934, hence the O.A.

7. The respondents have vehemently opposed the claim of the applicant by filing a detailed reply. A preliminary objection is also taken that the O.A. is barred by the law of limitation, as the order of discharge was issued in 2013 and O.A. has been filed in 2015 and, therefore, it be dismissed on that count alone. They have also submitted that the applicants have tried to mislead this Tribunal by distorting the facts and have not disclosed that their acquittal has been done on the basis of benefit of doubt only. It is also submitted that the Appointing Authority discharged the applicants from service, by invoking rule 12.21 of the Punjab Police Rules, 1934, after satisfying itself that they were not likely to prove efficient Police Officers. Since the order of dismissal is not stigmatic, therefore, this Court cannot look into the wisdom of Disciplinary authority in exercising power under rule 12.21 of the Punjab Police Rules, 1934.

8. We have heard learned counsel present for the respective applicants and Mr. Mukesh Kaushik, , learned counsel for the respondents and examined the pleadings on file minutely.

9. Learned counsels for the applicants vehemently argued that the impugned orders, discharging the services of the applicants, are in sheer violation of the principles of natural justice in as much as before passing the same, neither the authorities have conducted any enquiry nor the applicants were put to any notice, therefore, the same are liable to be quashed and set aside. They further submitted that, though the orders are simpliciter in form, but the motive behind it is the criminal case in which the applicants have already been acquitted, therefore, the respondents ought to have considered their conduct before passing the impugned orders of discharge which is totally missing in these cases.

10. To buttress their aforesaid arguments, learned counsels placed reliance upon the decision of Hon'ble Supreme Court in the case of **HARDEEP SINGH VS. STATE OF HARYANA**, 1987 (Supp) SCC 295 and our own Hon'ble Jurisdictional High Court in the case of **KRISHAN KUMAR VS. DY. INSPECTOR GENERAL**, 2011 (2) SLR 172. It is also argued, and with some amount of vehemence, that another employee namely Jagtar Singh, who was also terminated on the basis of same incident, had challenged the same in this Tribunal in **O.A.No.060/01109/2015** which was allowed 4.10.2017, and as such the instant cases also deserve same treatment.

11. On the other end, learned counsel for the respondents vehemently reiterated submissions made in the written statement and urged that the impugned orders are sustainable in law, because same have been passed under rule 12.21 of the Punjab Police Rules, 1934, under which services of Police Constables can be terminated, within 3 years of their engagement, if they are found to be not likely to prove efficient Police Officers. He submits that the orders are not stigmatic, therefore, it cannot be said from any angle, as suggested on behalf of applicants, that only the criminal case became basis for passing of the discharge orders. He places reliance on

decision of Hon'ble Apex Court in the case of **STATE OF PUNJAB VS. BALBIR SINGH**, 2004 (11) SCC 743; **STATE OF PUNJAB AND OTHERS VS. SUKHWINDER SINGH**, 2005 (3) SCT 616, **STATE OF PUNJAB & OTHERS VS. CONSTABLE AVTAR SINGH (DEAD) THROUGH LRS.** 2009(1) SCT 389, **STATE OF PUNJAB & OTHERS VS. RAJESH KUMAR**, 2007 (1) SCT 459 and Full Bench decision of Hon'ble Punjab and Haryana High Court in **SHER SINGH VS. STATE OF HARYANA**, 1994 (1) PLR 456.

12. We have given our thoughtful consideration to the entire matter and perused the pleadings available on record with the able assistance of the learned counsels present for the parties.

13. The issue and poser, as raised in these cases, has already been considered at length and set at rest, by the various courts of law and does not require any further elaboration by us. Rule 12.21 of the Punjab Police Rules, 1934, which is relevant in these cases, is reproduced as under:-

"12.21 Discharge of inefficient:

A constable who is found unlikely to prove an efficient police officer may be discharged by the Superintendent of police at any time within three years of enrolment. There shall be no appeal against an order of discharge under the rule."

A perusal of the rule formulation would make it more than clear that it admits of no doubt at all and if a constable, who is considered and found to be inefficient police officer, he or she can be discharged by the Competent Authority, at any time, within three years of his appointment and further, the rule provides that there would not be any appeal against such discharge from the service of a constable.

14. The aforesaid rule, and order of discharge in identical circumstances, in pursuance of the said provisions, was considered and decided by a Full Bench of our own Hon'ble jurisdictional High Court in the case of **SHER SINGH VS. STATE OF HARYANA**, 1994 (1) PLR 456, wherein, after relying upon various other judgments rendered by the Constitution Benches

of the Hon'ble Apex Court in the cases of **PARSHOTAM LAL DHINGRA VS. UNION OF INDIA**, AIR 1958 SC 36; **JAGDISH MITTER VS. UNION OF INDIA**, AIR 1964 SC 449; **CHAMPAK LAL CHIMAN LAL SHAH VS. UNION OF INDIA**, AIR 1964 SC 1854 and **A. G. BENJAMIN VS. UNION OF INDIA**, 1967 (1) LLJ 718, has held that Superintendent of Police can form his opinion, regarding the likelihood or otherwise, of a constable making a good police officer, not only on the basis of the periodic reports, contemplated under Rule 19.5, but also, on the basis of any other relevant material; and the provisions of Rule 16.24 and Article 311 shall be attracted, only when the punishing authority decides to punish the constable and not otherwise. The observations of the Hon'ble High Court are reproduced as under :-

"39. In view of the above it is held that -

(1) A constable can be discharged from Service under Rule 12.21 at any time within three years of his enrolment in spite of the fact that there is a specific allegation which may even amount to misconduct against him;

(2) A Superintendent of Police can form his opinion regarding the likelihood or otherwise of a constable making a good police officer not only on the basis of the periodic reports contemplated under Rule 19.5 but also on the basis of any other relevant material; and (3) The provisions of Rule 16.24 and Article 311 shall be attracted only when the punishing authority decides to punish the constable."

It is not in dispute that the applicants were involved in a criminal case in which they have been discharged based on benefit of doubt only and not on merits. To satisfy our judicial conscience and the inquisitiveness of the applicants, we had also summoned the original record from the respondents and examined the same minutely. A perusal of the same would show that the Competent Authority has formed an opinion that it was a desperate act by the applicants and they are danger to the safety and security of general public and their continuance in the Police Force would cause irreparable loss to the functioning and credibility of Chandigarh Police. Their act is most reprehensible and shameable which makes them undesirable to be retained

in police force in public interest and if a enquiry is conducted, the witness may not even support the department under threat, coercion and inducement by them and as such they were ordered to be discharged from service under PPR 12.21. The order of discharge dated 20.12.2013 (Annexure A-1), is very clear and only mentions that applicants are "discharged from service under PPR 12.21 with immediate effect, as they are not likely to prove efficient Police Officers". There is no stigma attached to the work and conduct of the applicants. Had the Competent Authority passed order, on the basis of implication of the applicants in the criminal case only, without application of independent mind, one could have accepted the view point of the learned counsel for the applicants. But in this case, the applicants are probationers and their work and conduct was under watch during that probation period and once Competent Authority thought it fit not to retain them in service, a court of law would not like to interfere with such a conclusion arrived at by it.

15. Similarly, in the case of **STATE OF PUNJAB AND OTHERS VS. BALBIR SINGH** 2004 (11) SCC 743, the Hon'ble Apex Court, while considering an identical issue, has held as under :-

"11. According to the facts on record, no enquiry of the nature specified above, was held in the present case. It is a case of discharge simpliciter. Nothing much turns upon the observations made by the Deputy Inspector General of Police in his order dated October 8, 1993 while deciding the appeal of the respondent. Respondent consumed liquor and misbehaved with a lady constable. He was medically examined. On this basis, coming to the conclusion that he was unlikely to prove himself an efficient Police Officer, an order of discharge under Punjab Police Rule 12.21 was passed. There was no enquiry. There was no stigma of punishment. It seems that while deciding the appeal of the respondent, the Deputy Inspector General of Police has referred to prima facie finding out of approved facts as a departmental enquiry and the observations of Deputy Inspector General of Police have been misconstrued by courts below.

12. The nature of enquiry was preliminary and not a full scale formal enquiry so as to lead to the inference that the object of the enquiry is to determine the guilt of the respondent. The basis of the discharge in the present case was not the misconduct on the part of the respondent, his services were terminated under Rule 12.21 of the Punjab Police Rules, 1934

considering the standards of discipline expected from police personnel."

16. Earlier thereto, in the case of **STATE OF PUNJAB & ORS. V. BHAGWAN SINGH**, 2002(1) SCT 253 (SC) an order of discharge passed under the Punjab Police Rule 12.21 was examined and it was held as under :-

"It has been reported to me by In-charge of PTC, Ladha Kothi, Sangrur, Inspector Joginder Singh, RI Police Lines, Faridkot and Inspector Sadhu Ram, PS City Kot Kapura that the act and conduct of Const. Bhagwan Singh, No. 1819/Fdk. on the whole is not satisfactory and he is unlikely to become a good police officer. I am also satisfied with their reports. I, Jasminder Singh, IPS, SSP/Faridkot being Competent Authority do hereby discharge Const. Bhagwan Singh, No. 1819/Fdk. from service w.e.f. today i.e. 4.9.1992 A.N. under PPR 12.21 as he is found to be unlikely to prove a good police officer."

The aforesaid order of discharge had been held to be illegal by the District Judge and the judgment of the District Judge was affirmed by the High Court. Allowing the appeal of the State, this Court held that the order of discharge to the extent it stated that the officer was unlikely to prove a good police officer, was in terms of the relevant Rule 12.21. Even in respect of the sentence in the impugned order that the performance of the officer on the whole was 'not satisfactory', this Court held that that also does not amount to any stigma.

The contention urged on behalf of the employee that the reference in the impugned order to the reports of the Inspectors on the basis of which the assessment was made would itself amount to stigma was rejected."

17. The Hon'ble Apex Court in the case of **STATE OF PUNJAB & OTHERS VS. SUKHWINDER SINGH**, 2005 (3) SCT 616, examined similar issue in which employee remained absent from duty for 22 days and was discharged from service without any enquiry on the ground that he was not likely to become an efficient officer. The Court held that the order was not punitive in nature and probationer has no right to the post. The probation period gives the employer time and opportunity to watch the Constable's performance and to dispense with his service for want of suitability for the post.

18. The decision of the Hon'ble Full Bench was considered by the Hon'ble Apex Court in the case of **STATE OF PUNJAB AND OTHERS VS. RAJESH KUMAR**, 2006 (12) SCC 418, and it was held as under :-

"7. In a similar case titled **State of Punjab v. Balbir Singh**, 2004 (4) RCR (Crl.) 999 (SC): 2004 (7) JT 383 in which a constable was discharged from service under Rule 12.21 on the basis of specific charge of consumption of liquor in office and misbehaviour with a lady constable and this Court while affirming the order of discharge passed the following order:

"Order of termination cannot be held to be punitive in nature. The misconduct on behalf of the respondent was not the inducing factor for the termination of the respondent. The preliminary enquiry was not done with the object of finding out misconduct on the part of the respondent it was done only with a view to determine the suitability of the respondent within the meaning of Punjab Police Rules 12.21. The termination was not founded on the misconduct but the misbehaviour with a lady constable and consumption of liquor in office were considered to determine the suitability of the respondent for the job, in the light of the standard of discipline expected from police personnel."

8. The Full Bench of the High Court of Punjab and Haryana has held in the case of **Sher Singh v. State of Haryana**, 1994 (2) S.L.R. Page 100 that a constable can be discharged from service under Rule 12.21 of Punjab Police Rules, 1934 at any time within three years of his enrolment in spite of the fact that there is a specific allegation which may even amount to misconduct against him. It was further held by the Full Bench that a Superintendent of Police can form his opinion on police officer not only on the basis of the periodic reports contemplated under Rule 19.5 but also on the basis of any other relevant material. In view of the above decision, the constable can be discharged from service even if there is specific allegation which may amount to misconduct against him.

9. The High Court, in our opinion, has also failed to notice that departmental enquiry is not required before passing an order under Rule 12.21 of Punjab Police Rules to discharge a constable on ground of his unauthorised absence and being habitual absentee who is not suitable to become a police officer."

19. Not only that, a three Judge Bench of the Hon'ble Apex Court in **STATE OF PUNJAB AND OTHERS VS. SUKHWINDER SINGH** - (2005) 5 SCC 569

has held as under :-

"20. In the present case neither any formal departmental inquiry nor any preliminary fact finding inquiry had been held and a simple order of discharge had been passed. The High Court has built an edifice on the basis of a statement made in the written statement that the respondent was habitual absentee during his short period of service and has concluded there from that it was his absence from duty that weighed in the mind of Senior Superintendent of Police as absence from duty is a misconduct. The High Court has further gone on to hold that there is direct nexus between the order of discharge of the respondent from service and his absence from duty and, therefore, the order discharging him from service will be viewed as punitive in nature calling for a regular inquiry under Rule 16.24 of the Rules. We are of the opinion that the High Court has gone completely wrong in drawing the inference that the order of discharge dated 16.3.1990 was, in fact, based upon the misconduct and was, therefore, punitive in nature, which should have been preceded by a regular departmental inquiry. There cannot be any doubt that the respondent was on probation

having been appointed about eight months back. As observed in *Ajit Singh and others etc. vs. State of Punjab and another* (supra) the period of probation gives time and opportunity to the employer to watch the work ability, efficiency, sincerity and competence of the servant and if he is found not suitable for the post, the master reserves a right to dispense with his service without anything more during or at the end of the prescribed period, which is styled as period of probation. The mere holding of preliminary inquiry where explanation is called from an employee would not make an otherwise innocuous order of discharge or termination of service punitive in nature. Therefore, the High Court was clearly in error in holding that the respondent's absence from duty was the foundation of the order, which necessitated an inquiry as envisaged under Rule 16.24(ix) of the Rules."

20. The aforesaid view was reiterated by the Hon'ble Apex Court in **STATE OF PUNJAB AND OTHERS VS. CONSTABLE AVTAR SINGH (DEAD)** through LR's, 2008 (7) SCC 405.

21. On the contrary, reliance placed by the learned counsel for the applicants in the case of **JAGTAR SINGH VS. CHANDIGARH ADMINISTRATION & ANOTHER**, O.A. No. 060/01109/2015, decided on 4.10.2017 is mis-conceived for a variety of reasons. Admittedly, in that case, the discharge was made by dispensing with enquiry under Article 311(2)(b) of the Constitution of India, and Court held that if respondents wanted to dismiss the applicant (therein) on the basis of misconduct, they could have conducted independent departmental enquiry, which was not done, thereby violation the protection guaranteed under Article 311 of the Constitution of India to regular government servants. In this case, since the applicants were probationers, so the quoted decision would not advance their cause, from any angle, whatsoever. Had the applicants been confirmed employees like Jagtar Singh (supra), their view point could have been understood but since the facts are altogether as their status is different, so the applicants cannot take benefit of that decision.

22. It is virtually admitted that the applicants were indeed involved in molestation and rape of a minor girl and were let off by court on the principle of benefit of doubt only and not on merits at all. The Competent Authority considered these events. Apparently, it is least expected from a

man in uniform, who is the embodiment and symbol of the Government's Authority and upon whom, the public in general looks up in times of need, to indulge in such kind of inhuman activities. So, the motive may have been the incident in question, but the same was not the foundation for passing of the impugned orders. It is not in dispute that the orders impugned by the applicants are non-stigmatic and innocuous. No mala fides have been alleged against the Competent Authority. Even otherwise, the facts of the cases do not warrant any interference and as such the same do meet the requirement of law.

23. A perusal of the rule formulation and legal proposition laid down by the Hon'ble Apex Dispensation and Hon'ble Jurisdiction High Court would make it more than clear that the issue with regard to discharge of a Constable within the first three years of his service, by invoking the provisions of Rule 12.21 of the Rules, on the subjective bona fide opinion of the concerned Disciplinary Authority, on the passing of an innocuous non-stigmatic order, is settled against the applicants.

24. The judgment cited by learned counsel for the applicants in **SUKHBIR SINGH ETC. V. STATE OF HARYANA AND OTHERS**, (C.A. Nos. 93-95 of 1989 - an unreported decision of the Lordships of the Supreme Court), was considered by the Full Bench of Hon'ble High Court in Sher Singh's case (supra) and after considering the same, the directions as reproduced above and which are being followed by me, were passed. It was held as under :-

"29. It is thus clear that in both these cases, the court found that the orders had been passed by way of punishment. Similar was the position in the case of Sukhbir Singh etc. v. State of Haryana and others, (C.A. Nos. 93-95 of 1989 - an unreported decision of their Lordships of the Supreme Court). Their Lordships have observed as under :-

"It is mentioned that on 3rd August, 1985 at about 10.30 a.m., the appellants had visited the house of the complainant and had informed the inmates that they desired to search the house as they had information that a girl of ill-repute had been brought to the house. It may hereby mentioned that the prosecution emanating from the first information report of 9th August, 1985 ended in an order of discharge since the evidence led by the prosecution did not in any manner reveal the commission of the alleged offence by the appellants. It is, therefore, clear from the above facts that the real reason for

the discharge of the appellants was the incident of 3rd August, 1985. The vague statement that the Superintendent of Police, Bhiwani had taken into consideration the overall work and conduct of the appellants in coming to the conclusion that they were unlikely to prove efficient police officers is only a camouflage and the real reason for discharge is the incident of 3rd August 1985. If the real cause for their discharge is the incident of 3rd August 1985, it is clearly action for misconduct and has nothing to do with the efficiency of the appellants.

30. Such is not the position in the cases before us. There is nothing on record to indicate that the 'authority' wanted to punish the petitioners. Furthermore, even if it is assumed, as suggested by the counsel for the petitioners, that the three cases referred to above, represent a departure from the old and traditional view expressed by the larger benches, we follow as we are bound to, the view expressed and the law as laid down by the Constitution Benches. [Emphasis supplied]"

25. The reliance placed by the applicants on decision **JAWAHAR LAL VS STATE OF PUNJAB**, C.W.P. No. 12026 of 2009 decided on 3.8.2011, is also misconceived. In that case, discharge order was set aside by IGP and he was reinstated in service. He claimed regularization of services. The DGP, Punjab set aside order of IGP, whereby he was reinstated in service. The Court found that no reasons had been given in the order and that the appellate authority had not exercised its power in a proper manner and by giving valid reasons. The order was totally cryptic etc. and as such the DGP was given liberty to pass a fresh order. Some other decisions on concept of lifting of veil, to found out, the basic grounds, for discharge of applicants were also cited. However, those too do not help the applicants, at all considering the peculiar facts of these cases, as discussed above.

26. In these all four cases, the order of discharge is not founded on the criminal case alone, initiated against the applicants. The motive may have been influenced by the act and conduct of the applicants in criminal case, to form an opinion by the Competent Authority but that motive did not reach to the stage of foundation for passing the discharge orders. Therefore, we do not find any grounds made out by the applicants, to interfere with the impugned orders, and all these Original Applications are found to be devoid of any merit and are dismissed accordingly. The Miscellaneous Applications

for condonation of delay in three cases shall also stand disposed of accordingly.

27. The parties are, however, left to bear their own respective costs.

(SANJEEV KAUSHIK)
MEMBER (J)

(MS. P. GOPINATH)
MEMBER (A)

Place: Chandigarh
Dated: 14.08.2018

HC*

