

of any such facts, the non consideration of the respondent No. 1 for promotion to the post of Chief Engineer after it became available on the dismissal of Shri K.K. Jerath, respondent No. 1 was entitled to be considered notwithstanding that fact that he was on deputation with the Municipal Corporation, Chandigarh. In any case, the Tribunal has not granted the relief of arrears of pay but has confined the relief to notional refixation of pay and then release of retiral benefit on that basis. Therefore, we do not find any room warranting interference of this Court in the well reasoned order of the Tribunal. The writ petition is mis-conceived and the same is accordingly dismissed.

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**R.N.R.**

***Before Mehtab S. Gill & Rakesh Kumar Jain, JJ***

**KAMALJIT KAUR,—Petitioners**

***versus***

**STATE OF PUNJAB AND OTHERS,—Respondents**

C.W.P. NO. 19607 OF 2007

7th January, 2008

***Constitution of India, 1950—Arts. 226 & 311(2)(b)—Punjab Police Rules, 1934—Rl.16.2(2)—Dismissal from service of a Head Constable by invoking provisions of Art. 311(2)(b) challenged—High Court quashing dismissal order while granting liberty to respondents to proceed against petitioner in accordance with law—Regular inquiry held—Enquiry Officer finding petitioner guilty of charges—Petitioner also convicted and sentenced in a criminal case—Provisions of Rl.16.2(2) provide that where an enrolled police officer is sentenced judicially to rigorous imprisonment exceeding one month or to any other punishment not less severe, shall if such sentence is not quashed on appeal or revision be dismissed—Petitioner sentenced for a period of 2 years—Merely because a revision is pending in High Court does not entitle petitioner to be reinstated in service by nullifying order of dismissal—Petition dismissed.***

*Held*, that the petitioner has been convicted and sentenced by the competent criminal Courts under various Sections of IPC for a period up to 2 years R.I. According to Rule 16.2(2) of the Punjab Police Rules, 1934 where an enrolled police officer is sentenced judicially to rigorous imprisonment exceeding one month or to any other punishment not less severe, shall, if such sentence is not quashed on appeal or revision, be dismissed. Order of conviction and sentence have not been quashed. Mere pendency of a criminal revision filed by the petitioner in this Court does not entitle her to be reinstated into service by nullifying the order of dismissal as the language of Rule 16.2(2) of the Punjab Police Rules, is mandatory as it provides that in case any enrolled police officer who is sentenced judicially to rigorous imprisonment exceeding one month and if such sentence is not quashed on appeal or revision, then he shall be dismissed from service.

(Paras 9 and 10)

Gurnam Singh, Advocate, *for the petitioner.*

**RAKESH KUMAR JAIN, J**

(1) The petitioner has filed this writ petition under Article 226 of the Constitution of India, for issuance of a writ in the nature of Certiorari, for quashing the impugned order dated 3rd December, 2007 (Annexure P-17), dismissing her from service.

(2) In brief, the facts of the case are that the petitioner was recruited as a Constable on 21st September, 1978 and was promoted as Head Constable on 2nd June, 1984. She was dismissed from service on 27th January, 1994 by the Senior Superintendent of Police, Ludhiana, invoking the provisions of Article 311(2)(b) of the Constitution of India. The petitioner had challenged the order dated 27th January, 1994, by way of C.W.P. No. 2921 of 1994, which was allowed by a learned Single Judge of this Court,—*vide* order dated 18th October, 2006 and that order was quashed. However, liberty was given to the respondents to proceed against the petitioner in accordance with law by holding an inquiry.

(3) The respondent-State had challenged the order dated 18th October, 2006. in L.P.A. No. 133 of 2007, but in the meanwhile, the petitioner was reinstated into service,—*vide* order dated 12th May, 2007,

passed by the Senior Superintendent of Police, Ludhiana. Since liberty was given to hold regular inquiry against the petitioner, therefore, S.S.P. , Ludhiana,—*vide* his order dated 12th May, 2007, ordered regular inquiry against the petitioner appointing Shri Harish Kumar, PPS, S.P., City-II, Ludhiana, under Punjab Police Rules 15.24 and in accordance with the Standing Order 3/1981 of D.G.P. Punjab.

(4) The afore-stated L.P.A. was disposed of on 2nd November, 2007, observing that direction issued by the learned Single Judge, has been complied with since a regular inquiry has been initiated against the petitioner. After a detailed inquiry report dated 17th November, 2007, the Inquiry Officer found that not only the petitioner was having links with the criminal elements, but also she has been convicted in a criminal case registered,—*vide* F.I.R. No. 30 dated 6th July, 1990 under Sections 420, 467, 468, 471 and 120-B of I.P.C. at Police Station, Civil Lines, Ludhiana, by the Court of Shri J.S. Chauhan, Addl. Chief Judl. Magistrate, Ludhiana on 6th November, 2003, and was sentenced as under :—

1. U/S 419 I.P.C. To undergo Rigorous imprisonment for six months and to pay fine of Rs. 500 in default of payment of fine undergo further R.I. for one month.
2. U/S 467 I.P.C. To undergo Rigorous imprisonment for two years and to pay fine of Rs. 2,000 in default of payment of fine to undergo further R.I. for three months.
3. U/S 468 I.P.C. To undergo rigorous imprisonment for one year and to pay fine of Rs. 1,000 in default of payment of fine to undergo further R.I. for two months.
4. U/S 471 I.P.C. To undergo rigorous imprisonment for six months and to pay fine of Rs. 500 in default of payment of fine to undergo further R.I. for one month.

(5) The order of conviction and sentence was further upheld by the Court of Shri J.S. Mahal, Addl. Session Judge, Fast Track Court, Ludhiana,—*vide* order dated 14th July, 2006.

(6) On 17th November, 2007, after receipt of the inquiry report, the punishing authority served a show cause notice to the petitioner as to why she should not be dismissed from service. The petitioner submitted her reply dated 24th November, 2007 to the show cause notice and the punishing authority after taking into consideration both the inquiry report and also the reply to the show cause notice, found the charges against the petitioner serious which defiles public faith and trust reposed in the disciplined force and thus,—*vide* the impugned order dated 3rd December, 2007, and also taking into consideration her right to pension, dismissed her from service.

(7) We have heard learned counsel for the petitioner.

(8) It has been argued that the petitioner has earned good/very goods ACRs and 9 commendation certificates. The previous order of dismissal dated 27th January, 1004 was quashed by the learned Single Judge of this Court,—*vide* his order dated 18th October, 2006, pursuant to which, the petitioner had joined her service. She had served for many year in the Police Department and her misconduct was not in the definition of gravest act of misconduct. In the end, it was also argued that against the order of conviction in a criminal case, her criminal revision bearing No. 1560 of 2006 is pending in this case.

(9) We do not find any merit in the contentions raised by counsel for the petitioner in view of the fact that she has been convicted and sentenced by the competent criminal Courts under various Sections of I.P.C. for a period up to 2 years R.I. as mentioned above. According to Rules 16.2(2) of the Punjab Police Rules, 1934, where an enrolled police officer is sentenced judicially to rigorous imprisonment exceeding one month or to any other punishment not less severe, shall, if such sentence is not quashed on appeal or revision, be dismissed.

(10) Even according to learned counsel for the petitioner, order of conviction and sentence passed by the Addl. A.C.J.M., Ludhiana, dated 6th November, 2003 and Addl. Sessions Judge, Ludhiana dated 14th July, 2006 have not been quashed. Mere pendency of a criminal revision filed

by the petitioner in this Court does not entitle her to be reinstated into service by nullifying the order of dismissal as the language of Rule 16.2(2) of the Punjab Police Rules, is mandatory as it provides that in case any enrolled police officer who is sentenced judicially to rigorous imprisonment exceeding one month and if, such sentence is not quashed on appeal or revision, then he shall be dismissed from service.

(11) We, therefore, find that the impugned order Annexure P-17, does not call for any interference and as such, the writ petition is dismissed in limine without any order as to costs.

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*R.N.R.*

*Before M. M. Kumar and T.P.S Mann, JJ*

**JAGAT SINGH,—Petitioner**

*versus*

**UNION OF INDIA AND OTHERS,—Respondents**

C.W.P. No. 11441 of 2007

25th January, 2008

*Constitution of India, 1950—Art. 226—Swatantrata Sanik Samman Pension Scheme, 1980—Claim for grant of S.S.S pension—Petitioner submitting affidavits issued by co-prisoners—State Government while relying upon certificates of two eligible certifiers recommending case of petitioner for grant of pension—Provisional pension sanctioned in favour of petitioner by UOI—Minor variation in describing actual freedom struggle in which petitioner participated—Petitioner also failing to submit fresh certificates/affidavits of two eligible certifiers since they have died—Petition allowed, respondent directed to restore pension of petitioner.*

Held, that the certificates of the two eligible certifiers as required had already been submitted by the petitioner before the pension was initially sanctioned in his favour. The State Government had recommended the case of the petitioner for the grant of pension. While doing so, it relied upon the certificates of Bahal Singh and Inder Singh, co-prisoners of the petitioner