



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

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**203+1030**

**Date of Decision: 24.09.2025**

**1. CWP-293-2012 (O&M)**

AMRIT LAL

...Petitioner

Versus

STATE OF PUNJAB & ORS.

...Respondents

**2. CWP-20630-2011**

KULWANT SINGH

...Petitioners

Versus

STATE OF PUNJAB & ORS.

...Respondents

**CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Manu K. Bhandari, Advocate with  
Mr. Arjun Sawhni, Advocate for the petitioner(s)

Mr. Aman Dhir, Deputy Advocate General, Punjab

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**JAGMOHAN BANSAL, J. (ORAL)**

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of orders dated 01.02.2010, 20.09.2010, 06.01.2011 and 23.06.2011 whereby he has been dismissed from service.

2. On 01.05.2012, this Court passed the following order: -

*“The grievance raised in the present petition is that the petitioner was dismissed under Article 311(2) of the Constitution of India. His appeal was dismissed by respondent No.3. Thereafter he moved before respondent No.2 who had dismissed this plea by observing that against an order of dismissal under article (311)2, no appeal is maintainable.*”

*Learned counsel for the petitioner states that there is no warrant for this proposition of law. When confronted with the fact that under the rules only one appeal is provided, learned counsel states that in any case a revision is also provided and even if a second appeal was not maintainable respondent No.2 could have treated the petition before him as a revision and passed necessary orders thereon. In this regard learned counsel further prayed that the impugned order should be set aside and respondent No.2 be directed to decide the petition filed before him as a revision petition under rule 16.32 of the Punjab Police Rules.*

*Notice of motion.*

*Ms. Monica Chhibber Sharma, DAG, Punjab, accepts notice on behalf of the respondents.*

*Learned counsel for the petitioner undertakes to supply five copies of the petition to the learned DAG during the course of the day.*

*Adjourned to 05.09.2012.*

*To come up along with CWP No. 20630 of 2011.”*

3. Learned counsel for the petitioner submits that the petitioner was dismissed from service without conducting the inquiry as contemplated under Rule 16.24 of Punjab Police Rules, 1934 read with Article 311 of the Constitution of India. There was no occasion to dispense with the inquiry. The petitioner, at the most, could be placed under suspension but he was not liable to be dismissed. The action of respondent-State was bad in the eye of law. It is settled proposition of law that every conviction does not entail dismissal from service. In the instant case, the petitioner was not convicted on the date of dismissal from service, thus, order of dismissal from service was bad in the eye of law. As per judgments of this Court in ***‘Hakam Singh Vs. Punjab State Power Corporation Limited and Anr.’***, 2021 (6) SLR 246 and ***‘Jai Bhagwan Vs. State of Haryana’***, CWP-26842-2015 dated 14.02.2017, dismissal from service from conviction is not automatic. There should be

application of mind. The authorities are required to examine gravity of offence, role of the employee, quantum of punishment, length of service, entitlement to pension etc. In the case in hand, the petitioner was not even convicted by trial Court on the date of dismissal from service. He was dismissed invoking Clause (b) of 2nd proviso to Article 311(2) of Constitution of India. Said clause could be invoked in the case of conviction.

4. *Per contra*, learned State counsel submits that petitioner was found guilty of escape of a undertrial prisoner namely Mandeep Singh. The petitioner was convicted by trial Court. He was sentenced to imprisonment of 2 years.

5. I have heard learned counsel for the parties and perused the record of the case.

6. From the perusal of record, it is evident that petitioner was dismissed from service without conducting enquiry as contemplated by Rule 16.24 of Punjab Police Rules, 1934 (in short 'PPR') read with Article 311 of the Constitution of India. The respondent could not dispense with enquiry on mere registration of FIR. Clause (b) of 2nd proviso to Article 311(2) of the Constitution of India can be invoked in case of conviction. It was not a case of conviction but registration of FIR. The FIR was registered on 01.02.2010 and petitioner was convicted by trial Court vide judgment dated 11.10.2012. He was declared guilty of escape of a prisoner. Rule 16.37 of PPR provides that an officer shall be liable to be dismissed if he is judicially convicted for escape of a prisoner. Rule 16.37 of PPR reads as:-

*“16.37. Dismissal the normal punishment in escape cases.- (1) Dismissal shall normally follow a judicial or departmental conviction for negligence resulting in the escape of the prisoner and may, with the approval of Deputy Inspector-General, follow judicial discharge or acquittal under the conditions described in rule 16.3. Where extenuating circumstances exist, and a punishment other than dismissal is awarded, the file shall be submitted to the Deputy Inspector-General for review of the orders passed. The Deputy Inspector-General, will, however, pass no orders until the period of appeal has expired. If an appeal is lodged, the punishment will be examined in the ordinary way, if there is no appeal, the Deputy Inspector-General will proceed to review the punishment if he considers it necessary. If the Deputy Inspector-General decides to enhance the punishment awarded, an appeal will then lie against such order to the Inspector-General. If an appeal does not lie against the original punishment awarded, the Deputy Inspector-General will proceed to review the case as soon as he receives it.*

*(2) The authority to retain in the service an enrolled police officer, who has been convicted of neglect either judicially or departmentally in connection with an escape, shall rest with the Deputy Inspector-General, or, in the case of Inspectors, with the Inspector-General. If extenuating circumstances exist, they shall be clearly stated and application made to or through the Deputy Inspector-General to award any authorized punishment other than dismissal.”*

*[Emphasis supplied]*

7. In view of above quoted Rule, the petitioner was liable to be dismissed as soon as he was convicted by trial Court for escape of a prisoner. He has preferred an appeal before this Court against judgment of conviction which is still pending. Learned counsel for the petitioner is claiming that even if conviction is upheld by this Court, he would have

arguable case in terms of proviso to Rule 16.2(2) and Rule 16.37 of PPR as well as different judgments holding that every conviction does not entail dismissal from service. The arguments of petitioner, either he is convicted or acquitted by this Court, can be considered after adjudication of his appeal. As on date, he stands convicted. The judgments cited by petitioner relate to Rules other than Rule 16.37 of PPR. It is settled proposition of law that if there is a particular provision adverting to specific situation/circumstance, general provisions cannot be considered. Claim of petitioner cannot be considered in piecemeal. His claim qua lesser punishment or no punishment would mature after adjudication of his criminal appeal.

8. In wake of above discussions and findings, this Court is of the considered opinion that interference in impugned orders at this stage is not warranted. Claim, if any, of the petitioner would arise after adjudication of criminal appeal pending before this Court. The petitioner is entitled to avail remedies as permissible by law as soon as appeal pending before this Court is adjudicated.

9. Disposed of in above terms.

10. Pending application(s), if any, also stands disposed of.

**(JAGMOHAN BANSAL)**  
**JUDGE**

**September 24, 2025**

*Deepak DPA*

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No