

KULBIR SINGH VS STATE OF HARYANA AND OTHERS

Present: Mr. Mohinder Pal, Advocate
for the petitioner.

Learned counsel for the petitioner contends that the petitioner was appointed as constable on 02.12.1988 and in due course he was promoted to the post of ESI at Police Lines, Hisar. During Vidhan Sabha election, the petitioner was deputed as gunman to a candidate and he remained with him throughout. One Ramesh Kumar had some family dispute with the petitioner and his family members and the petitioner was falsely involved in FIR No.946 dated 15.10.2014 registered under Sections 323, 325, 34, 506 IPC at Police Station Sadar, Hisar. In the aforesaid FIR, the petitioner was arrested and was placed under suspension. Departmental enquiry was ordered. In the departmental enquiry, the petitioner was found to be guilty and after issuance of show cause notice, punishment of stoppage of four future annual increments with permanent effect was ordered by the punishing authority. In the appeal before the appellate authority, the punishment was reduced to stoppage of two future annual increments with permanent effect. The petitioner remained unsuccessful in the revision petition. In the criminal case, the petitioner was acquitted vide judgment of acquittal dated 08.02.2017 by the Judicial Magistrate, 1st Class,

Hisar. The petitioner also filed a mercy petition before the respondent No.1. When the said mercy petition was not decided for a period of five years, the petitioner ventured to file CWP No.21184 of 2021 in which directions were issued to decide the mercy appeal. Ultimately the mercy appeal has been decided in which the punishment has been further reduced to stoppage of one increment with cumulative effect with an observation that the petitioner has already been acquitted in the criminal case. The petitioner was acquitted in the criminal case on the basis of the statement made by Ramesh Kumar that the petitioner did not give any beating or threat to him. The Additional Chief Secretary to Government, Haryana, Home Department took lenient view after recording incriminate findings that the petitioner was only trying to separate two feuding parties in order to douse the dispute. The incident occurred at a place which was situated 10 kilometers away from his native village. The punishment of stoppage of two increments with cumulative effect was ordered to stand till the date of passing of order dated 19.12.2022 and prospectively it was ordered that one future increment shall be withheld with cumulative effect.

On the basis of aforesaid factual matrix, learned counsel for the petitioner submits that the authorities in hierarchy are entertaining the prayer on the basis of intensity of

alleged allegations. Once the petitioner was acquitted in the criminal case, on the basis of statement of the complainant, no case is made out even for stoppage of one future increment with cumulative effect.

Notice of motion returnable on 03.10.2023.

24.05.2023
P.Bhatt

(RAJ MOHAN SINGH)
JUDGE