



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

Reserved on : 17.09.2025

Pronounced on : 23.09.2025

1. CWP-14996-2025

KRISHAN KUMAR @ KRISHAN LAL

...Petitioners

Versus

STATE OF HARYANA AND ORS.

...Respondents

And

2. CWP-23420-2025 (O&M)

BALWATI

...Petitioner

Versus

STATE OF HARYANA AND ORS.

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Ashwani Verma, Advocate
for the petitioner (*in CWP-14996-2025*)

Mr. Aditya Yadav, Advocate
for the petitioner (*in CWP-23420-2025*)

Mr. Ashok Kumar Khubbar, Addl. A.G, Haryana with
Mr. Ravi Partap Singh, DAG Haryana

Mr. Aman Dhir, Deputy Advocate General, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. As common issues are involved in the captioned petitions, with the consent of both sides, the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from **CWP-14996-2025**.

2. The petitioner through instant petition under Article 226/227

of the Constitution of India is seeking direction to respondents to consider his representation dated nil (Annexure P-6) as well demand notice dated 16.09.2023 (Annexure P-7) and convert his punishment of dismissal from service into compulsory retirement on the ground of parity.

Facts

3. The petitioner joined Haryana Police Force as Constable on 01.10.1985. He along with his colleagues came to be implicated in FIR No.62 dated 25.03.2001 under Sections 302/323/342/167/34 of IPC. The Trial Court vide judgment dated 26.10.2012 acquitted them of charge under Sections 302 and 34 of IPC, however, convicted under Section 323, 342, 167 and 34 of IPC. They were awarded rigorous imprisonment of three years. They have filed appeals against judgment of conviction which are still pending before this Court.

4. On account of conviction, the petitioner and other police officials were dismissed from service vide order dated 16.11.2012. They preferred appeals against dismissal order which came to be dismissed by Appellate Authority. They further preferred revision petitions before Director General of Police (for short 'DGP') which came to be dismissed. Co-accused-SI Gharsa Ram preferred mercy petition before State Government and Additional Chief Secretary to Government of Haryana, Home Department vide order dated 23.12.2013 reduced punishment of dismissal to compulsory retirement. Co-accused EHC Kuldeep Singh preferred *CWP-4913-2019* before this Court which came to be disposed of vide order dated 25.02.2019 with a direction to respondent to decide his mercy petition. Matter of Kuldeep Singh again came up for

consideration before DGP who on the ground of parity converted punishment of dismissal of service into compulsory retirement subject to outcome of CRM-3207-SB-2012. The petitioner taking cue from orders passed in the case of Gharsa Ram and Kuldeep Singh preferred undated representation to Additional Chief Secretary, Government of Haryana, Home Department seeking conversion of his dismissal into compulsory retirement. The said representation was followed by demand notice dated 16.09.2023.

5. This Court keeping in mind mandate of Rule 16.2(2) of Punjab Police Rules, 1934 (as applicable to State of Haryana) (for short 'PPR') vide order dated 23.05.20025 asked Home Secretary to file affidavit explaining as to how an officer who has already been convicted and awarded sentence of rigorous imprisonment exceeding one month can be compulsorily retired instead of being dismissed from service.

6. In compliance of order dated 23.05.2025 of this Court, the Home Secretary filed affidavit dated 17.07.2025 deposing that as per judgment of Hon'ble Supreme Court in '*State of Punjab and Ors. Vs. Dharam Singh*', (1997) 2 SCC 550, the expression '*shall be dismissed*' must be considered in the light of nature of offence, mitigating circumstances and proportionality of punishment. There should be some discretion. The Court disapproved automatic dismissal approach and held that case must be evaluated on its facts and blanket mandate like Rule 16.2(2) of PPR must be interpreted harmoniously with constitutional safeguards. The relevant extracts of the affidavit dated 17.07.2025 are reproduced as below:-

*“3. That the use of the word "shall" in Rule 16.2(2) has been interpreted judicially to not denote absolute or mandatory dismissal in all circumstances. The Hon'ble Supreme Court in **State of Punjab and Others vs Dharam Singh, (1997) 2 SCC 550**, has examined the rigid interpretation of "shall be dismissed" and held that some discretion must exist to consider the nature of offence, mitigating circumstances, and proportionality of punishment. The court emphasized Article 311(2) of the Constitution, which protects civil servants from arbitrary dismissal and insists on reasonable opportunity to be heard. The Court disapproved the automatic dismissal approach and held that each case must be evaluated on its facts, and blanket mandates like Rule 16.2(2) must be interpreted harmoniously with constitutional safeguards. While upholding this discretion, Hon'ble Supreme Court held as under:-*

"A rule framed under Article 309 cannot override the constitutional mandate under Article 311. Therefore, even if a rule provides for mandatory dismissal upon conviction, the disciplinary authority must apply its mind to the facts and circumstances of each case before imposing such penalty."

"The gravity of the offence, the conduct of the official, the nature of the conviction, and the length of sentence are relevant considerations. Dismissal cannot follow as an automatic or mechanical consequence of conviction."

Apart from above, this Hon'ble High Court in various decisions has reiterated that proportionality, fairness, and mitigating factors must guide the choice of punishment under Rule 16.2(2) of Punjab Police Rules, 1934.

4. That considering the above, in appropriate and deserving cases, punishment of dismissal from service is

substituted with that of compulsory retirement in consonance with the constitutional safeguards after evaluating, inter alia, following factors:-

- a. The nature and circumstances of conviction (e.g. non-serious offences);*
 - b. Length and quality of prior service;*
 - c. Absence of moral turpitude or public outrage;*
 - d. Consideration of parity with co-accused; and*
 - e. Public interest.*
- 5. That insofar as the case of Ex SI Gharsa Ram No. 437/H (Co-accused of the petitioner) is concerned it is humbly submitted, based on the available records, that the following mitigating factors were considered by the then Home Secretary, Haryana at the time of taking decision of substituting dismissal with compulsory retirement of Ex SI Gharsa Ram No. 437/H:-*
- I. Ex SI Gharsa Ram No. 437/H had put in more than 37 years of service prior to the conviction and had a clean service record. He also had attained the age of about 57 years on the date of dismissal from service. Thus, Superintendent of Police, Sirsa i.e punishing authority had not considered the fact of length of service while awarding the punishment of dismissal.*
 - II. His appeal assailing the order of conviction was also pending at the time of dismissal.*

In addition to the factors mentioned above, the then Home Secretary might have also considered other relevant aspects while deciding to modify the punishment of Ex-SI Gharsa Ram No. 437/H (a co-accused of the petitioner). Although the exact reasons for substituting the dismissal order with compulsory retirement, except the above, can't be presumed/ assumed, the following possible considerations might also have influenced the decision:-

- I. *The petitioner and his co-accused were implicated in an FIR under sections 302,323,342,167 and sec 34 of IPC. The Trial Court vide judgement dated 26.10.2012 acquitted petitioner and co-accused from the gravest charge u/s Section 302 and 34 of IPC, and convicted under lesser offences punishable under sec 323,342, 167 and 34 of IPC.*
- II. *The offence under which they were convicted did not involve moral turpitude or corruption.*
- III. *Petitioner and other co-accused have filed Criminal Appeal No. 3207-SB of 2012 in this Hon'ble High Court which is still pending and hence, order of conviction has not attained the finality. Even when above mentioned criminal appeal came up for hearting on 21.11.2012, the Hon'ble High Court suspended the sentence of imprisonment imposed on the petitioner and co-accused."*

7. In CWP No. 23420-2025, this Court noticing the fact that police officers are filing mercy petition before State Government whereas mercy petition is maintainable before revisionary authority as per Rule 16.32, vide order dated 19.08.2025 asked Home Secretary to clarify as to whether mercy petition can be adjudicated under Rule 16.28 of PPR. The order dated 19.08.2025 passed in CWP-23420-2025 reads as:

"CM-11768-CWP-2025

The applicant-petitioner through instant application under Section 151 CPC is seeking permission to place on record Mercy Appeals as well as order dated 10.02.2023 as Annexures P-6 to P-8.

Allowed as prayed for.

Mercy Appeals as well as order dated 10.02.2023 are taken on record as Annexures P-6 to P-8, subject to all just exceptions. Registry is directed to tag the same at an appropriate place.

CWP- 23420 of 2025

- 1. The State counsel during the course of hearing produced original file of Mercy Appeals filed by petitioner.*
 - 2. From the perusal of file as well as speaking orders, it comes out that petitioner had filed Mercy Appeals and respondent adjudicated the same. In a subsequent communication, Home Department has averred that these appeals were decided under Rule 16.28 of Punjab Police Rules, 1934 (as applicable to State of Haryana) (in short "PPR").*
 - 3. The Additional Chief Secretary, Government of Haryana is directed to file affidavit disclosing as to whether Mercy Appeals could be adjudicated under Rule 16.28 of PPR especially when there was no averment in the appeal to the effect that it is an application seeking review of orders passed by authorities.*
 - 4. Scope of review is very limited. Only patent/manifest illegality may be corrected. The orders of respondent seem to be otherwise, thus, in the affidavit it would also be disclosed whether in the name of review punishment order can be set aside without pointing out illegalities in the orders passed by Police Authorities including Director General of Police.*
 - 5. Adjourned to 17.09.2025.*
 - 6. In the meantime, status quo be maintained.*
 - 7. Original record is returned to the State Counsel."*
8. This Court vide order dated 19.08.2025 passed in CWP 14996-2025 asked DGP to file his affidavit to the effect whether order of dismissal from service is passed after adjudication of appeal/revision

against judgment of conviction and order of sentence. The order dated 19.08.2025 passed by this Court reads as:

“1. Affidavit of Dr. Sumita Misra, IAS, Additional Chief Secretary to Government, Haryana, Home Department on behalf of respondent No. 1 is taken on record. Registry is directed to tag the same at appropriate place.

2. In the affidavit, respondent has justified its decision to award punishment less than dismissal from service despite conviction and sentence of more than one month awarded by Criminal Court. The respondent has further pointed out Rule 16.2 (2) of Punjab Police Rules, 1934 (as applicable to State of Haryana) (in short “PPR”) to the effect that punishment of dismissal from service can be awarded to an enrolled Police Officer sentenced judicially to rigorous imprisonment. The final departmental order in such cases shall be postponed until the appeal or revision proceedings have been decided or until the period for filing appeal has lapsed without appellate or revisionary proceedings having been instituted.

From the said averment, it appears that Home Department is of the opinion that despite sentence awarded by criminal Court, the order of dismissal from service should be passed after adjudication of appeal or revision.

3. This Court has come across many cases where officers are dismissed from service as soon as either FIR is registered or sentence is awarded by Criminal Court. The stand of Home Department seems to be contrary to orders passed by Police Department.

4. Let an affidavit of Director General of Police be filed before the adjourned date to the effect whether order of dismissal from service would be passed after adjudication of appeal/revision where Police Officer has been implicated in a criminal case and awarded sentence of imprisonment.

5. In the affidavit, the Home Department has further

formed an opinion that despite sentence of more than one month, the Department may award punishment other than dismissal from service.

6. *Let affidavit of Additional Chief Secretary, Home Department, Government of Haryana and Director General of Police, Haryana be filed disclosing that how many police officials during the last three years despite conviction have been awarded punishment other than dismissal from service.*

7. *Adjourned to 17.09.2025.”*

9. The Home Secretary filed her affidavit dated 04.09.2025 in CWP-23420-2025 clarifying that police officers are unaware of correct rule, thus, they file mercy petitions which are adjudicated under rule 16.28 as State Government has power to review orders of DGP under said rule. Relevant extracts of the affidavit read as:

“5. That a plain reading of the above statutory provision would show that the State Government has been conferred the power:-

- to call for the records*
- to review the award*
- to confirm, enhance, modify or annul the same.*

6. *That the deponent joined the office of Additional Chief Secretary to Government, Haryana Home Department on 02.12.2024 and as per record, it has been revealed that the mercy appeals/petitions/representations of police officials have been entertained by the State Government against the orders passed by the Director General of Police, Haryana under the above said provision since decades. There are also many instances, where after submission of mercy appeals/petitions/representations, the police officials approached this Hon'ble Court seeking directions to the State Government to decide their*

appeals/petitions/representations and directions were issued by this Hon'ble Court to the State Government from time to time to consider and decide the mercy appeals/petitions/representations in a time bound manner. In compliance of the directions of this Hon'ble Court, the mercy appeals/petitions/representations were considered and decided by the Government.

7. *That in the aforesaid background, it is submitted that from the record of the department, it has also been revealed that in most of the cases, the mercy appeals/petitions/representations are filed by the police officials without mentioning the averment to the effect that these appeals/petitions seek review of orders passed by the authorities. In most of the cases, mercy appeals/petitions/representations are filed by the police officials aggrieved with the decisions of the Director General of Police, Haryana, without any assistance of Legal Practitioner, who might not aware about making specific averment to seek review of orders passed by authorities. The mercy appeals/petitions/representations of the police officials had been and are being adjudicated under the enabling provision of rule 16.28 of PPR in view of fact that technicalities should not come in the way to address the grievance of manifest error/injustice caused such police officials."*

10. The DGP filed his affidavit dated 16.09.2025 and Home Secretary filed her affidavit dated 15.09.2025. Stand of DGP seems to be contrary to stand of Home Department. DGP has deposed that authorities are bound to dismiss an enrolled officer who is sentenced judicially to rigorous imprisonment exceeding one month or to any other punishment not less severe. In case of punishment of fine or simple imprisonment or rigorous imprisonment not exceeding one month, an enrolled police

officer may be awarded punishment less than dismissal from service. There is discretion with the authorities. With respect to stage of punishment, it has been deposed that Full Bench of Delhi High Court in ***'Sukhbir Singh Vs. Commissioner of Police and Ors.'***, W.P.(C) 1956/2013 dated 06.01.2014 has held that expression *'provided that no such order shall be passed till such time the result of the first appeal that may have been filed by such police officer is known'* has to be read as directory. As per judgments of Hon'ble Supreme Court in ***'Deputy Director of Collegiate Education Vs. S. Nagoor Meera'***, 1995 AIR SC 1364 and ***'Union of India and Ors. Vs. Sh. Ramesh Kumar'***, 1997 AIR SC 3531, order of dismissal from service cannot be set aside on the ground that sentence has been suspended by Appellate Court and if delinquent succeeds in appeal or other proceedings, the matter can always be reviewed in such a manner that he suffers no prejudice. Relevant extracts of the affidavit of the DGP read as :-

"3. That it is submitted that there are two provisions in the above rule for taking decision on punishment of dismissal of the Police Officer by the competent authority after the conviction, firstly, the authorities are bound to dismiss an enrolled Police Officer, if he is sentenced judicially to rigorous imprisonment exceeding one month or to any other punishment not less severe.

Secondly, an enrolled Police Officer sentenced by a criminal court to a punishment of fine or simple imprisonment, or both, or to rigorous imprisonment not exceeding one month, or who, having been proclaimed under Section 87 of the Code of Criminal Procedure fails to appear within the statutory period of 30 days may be dismissed or otherwise dealt with at the discretion of the

officer empowered to appoint him. Hence, the authorities can use discretion and can inflict any punishment other than dismissal considering act and conduct of the Police Officer.”

11. Home Secretary in her affidavit dated 15.09.2025 has deposed that in last three years there is no case in which police officer has been awarded punishment other than dismissal from service after conviction.

Contention of the petitioner(s)

12. Mr. Aditya Yadav, Advocate submits that appeal is maintainable against order of dismissal or reduction or stoppage of increment or forfeiture of approved service. Appeal is not maintainable against other orders of punishment e.g. minor punishment of censure. In case of disciplinary proceedings against Inspector culminating in punishment, the aggrieved officer has right to file appeal which at present is maintainable before DGP. At present, DGP is Head of the Department and at the time of introduction of Punjab Police Rules, Inspector General of Police (for short ‘IGP’) used to be head of the department. Revision under Rule 16.32 PPR is maintainable before the authority higher than Appellate Authority. In case appellate order is passed by IGP, revision is maintainable before DGP and if appellate order is passed by DGP, revision is maintainable before State Government. Rule 16.32 of PPR permits Appellate Authority to review its order provided appeal has been heard by IGP. In the present scenario, it would be applicable where appeal has been heard by DGP. Rule 16.32 itself provides that this rule does not affect provisions of Rule 16.28, thus, orders passed by

Appellate/Revisionary Authority can be reviewed by an authority higher than Appellate/Revisionary Authority.

13. On being asked, Mr. Yadav submits that despite expression “awards” used in Rule 16.28 of PPR, power of review can be exercised against appellate or revisionary order. Appellate or revisionary order is confirmation/modification of award, thus, review is maintainable against appellate or revisionary order. In case, award is not passed by the Disciplinary Authority, review is not maintainable. The disciplinary authority may opt to drop departmental proceedings. In such a situation, no review is maintainable.

14. Mr. Ashwani Verma, Advocate submits that co-accused have been awarded punishment other than dismissal from service, thus, on the ground of parity despite conviction by Criminal Court, petitioner deserves to be awarded punishment other than dismissal from service. The Home Secretary in her reply has confirmed that in peculiar circumstances lesser punishment may be awarded. Dismissal is not automatic. There is no application of mind on the part of authorities.

Contention of the State:

15. *Per contra*, Mr. Ashok Kumar Khubbar, Addl. A.G, Haryana and Mr. Aman Dhir, Deputy Advocate General, Punjab submit that power of review under Rule 16.28 of PPR can be exercised against awards. The expression ‘awards’ should be interpreted in the manner it has been used in Rule 16.28 of PPR. If appellate or revisionary orders are also included in the expression ‘awards’, intent of Legislature specifically using expression ‘awards’ would be defeated. Appellate or revisionary order

cannot be reviewed under Rule 16.28 of PPR. As per Rule 16.32 of PPR, if Appellate Authority is IGP (at present DGP), it can review its order. Rule 16.32 makes it clear that it is only Appellate Authority which can review its order. The orders passed by Appellate Authority cannot be subjected to review by any higher authority. Power under Rule 16.28 should be restricted to awards passed by original authority.

With respect to punishment other than dismissal from service, in case of conviction, learned State counsel submits that DGP in his affidavit has made it clear that as per Rule 16.2(2) of PPR if an officer is sentenced to rigorous imprisonment of more than one month, no discretion lies with authorities to grant punishment other than dismissal from service. The discretionary power can be exercised if punishment awarded is simple imprisonment or awarded punishment despite being rigorous is up to one month.

16. From the arguments of both sides and perusal of record, following questions arise for the consideration of this Court:

- i. Whether respondent can award punishment other than dismissal from service where an enrolled Police officer has been sentenced to rigorous imprisonment exceeding one month?
- ii. Whether review under Rule 16.28 of PPR is maintainable against appellate or revisionary orders?
- iii. Whether reviewing authority under Rule 16.28 of PPR has power to remand the matter back to subordinate authority?

17. Matter relates to scope and ambit of Rule 16.2, 16.28, 16.30, 16.32 of PPR, thus, it would be relevant to examine nature, colour and contour of the Punjab Police Rules, 1934.

17.1 A five judge bench of Hon'ble Supreme Court in ***Pankajakshi v. Chandrika, (2016) 6 SCC 157*** adverted to issue of effect of Section 100 of CPC over Section 41 of Punjab Courts Act, 1918 (for short '**1918 Act**'). The Court overruling its two Judge judgment in ***Kulwant Kaur v. Gurdial Singh Mann, (2001) 4 SCC 262*** held that 1918 Act is an '*existing law*' and it did not cease to exist as per Article 395 of Constitution of India. Article 254 is inapplicable to the extent of inconsistency between Section 100 of CPC and Section 41 of 1918 Act. Article 372 is applicable to 1918 Act.

Article 309 of the Constitution of India permits Union as well as State Legislature to make appropriate legislation to regulate recruitment and conditions of service of their employees. Proviso to Article 309 provides that it shall be competent for the President in case of posts connected with affairs of Union and Governor in case of posts connected with affairs of State to make rules regulating the recruitment and conditions of service. The Rules made by President or Governor hold the field till provisions are made by appropriate legislature. The Punjab Police Rules were made prior to enforcement of the Constitution of India. As per Article 366 (10) of the Constitution of India, these are '*existing law*'. Article 366 (10) is reproduced as below:

"existing law" means any law, Ordinance, order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any Legislature,

authority or person having power to make such a law, Ordinance, order, byelaw, rule or regulation.”

The PPR came into force prior to commencement of Constitution, thus, fall within definition of ‘*existing law*’ under Article 366(10). Judgment of Hon’ble Supreme Court in **Pankajakshi (supra)** is equally applicable to PPR as applicable to Punjab Courts Act. These Rules can be amended by State Legislature and in case of repugnancy with Central Legislation, shall have overriding effect.

18. From the perusal of record, it comes out that service of petitioner is governed by Haryana Police Act, 2007 (for short ‘**Police Act**’) and Rules made thereunder. The State Government made Haryana Police (Non-Gazetted and Other Ranks) Service Rules, 2017 (for short ‘**2017 Rules**’) which came into force w.e.f. 08.05.2017. 2017 Rules are inapplicable to the petitioner because he was directly recruited on 01.10.1985 i.e. before publication of the Rules and might have passed Lower School Course before publication of 2017 Rules. As per Rule 21 of 2017 Rules and Section 96 of Police Act, his service is governed by PPR.

19. Section 96 of Police Act provides that PPR shall be deemed to have been framed under this Act till new Rules are framed. The State Government has framed 2017 Rules under Police Act. Section 92 of the Police Act empowers State Government to make Rules for carrying out purposes of the Act. Thus, State Government can make any Rule for carrying out purposes of the Act.

20. Chapter XVI of PPR provides for punishments. Rule 16.1 of PPR prescribes departmental punishments which may be inflicted on

officers and the authorities which may pass award of punishment. Rule 16.1 for the ready reference is reproduced as below:-

“16.1. Authorised punishments.- (1) No police officer shall be departmentally punished otherwise than as provided in these rules.

(2) The departmental punishments mentioned in the second column of the subjoined table may be inflicted on officers of the various ranks shown in the heading Nos. 3 to 6, by the officers named below each heading in each case, or by any officer of higher rank:

1	2	3	4	5	6
Sr. no.	Departmental punishment	Inspectors	Sergeants, Sub-Inspectors and Assistant Sub-Inspectors	Head Constable	Constables
1	Dismissal	Deputy Inspectors General Superintendent of Police Railway, the Assistant Inspector-General, Provincial Additional Police designate d as Command ant, Provincial Additional Police, and the Assistant Inspector-General of Police (Traffic)	Superintendents of Police and Superintendent of Police, Railways	Superintende nts of Police, Commandan ts of Punjab Armed Police and Deputy Superintende nt, (Administrati ve), Government Railway Police, Assistant Superintende nt, Government Railway Police, Superintende nts-in-charge Deputy of Railway Police Sub divisions senior Assistant Superintende nt of Police, Lahore & Officers incharge,	Superintendents of Police, Superintendent of Police, Railways Deputy Superintendents in-charge of Railways Police Sub-Divisions; Senior Assistant Superintendent of Police, Lahore; Officer-in-charge of Recruits Training Centres, Deputy Superintendent of Police, Lahaul and spiti.

				<i>Recruits training Centres, Deputy Superintendent of Police Lahaul and Spiti District, Assistant Superintendent of Police, Lahaul and Spiti District, District magistrate, Lahaul and Spiti.</i>	
2	<i>Reduction in rank</i>	<i>Superintendent of Police Railway; Superintendent of Police; Assistant Inspector-General of Police (Traffic)</i>	<i>Superintendent of Police, Also Superintendent of Police Railways and (as regard Sub-Inspectors and Assistant Sub-Inspectors only), Deputy Superintendent in-charge of Railway Police Sub-Division and Officer-in-charge of the Police Recruits Training Centres, Amritsar.</i>	<i>Superintendent of Police, Also senior Assistant Superintendent of Police, Lahore Superintendent of Police Railways Deputy Superintendent in charge of Railway Police Sub-Division and Officer-in-charge of the Police Recruits Training Centre, Amritsar.</i>	<i>Superintendent of Police; Superintendent of Police, Railways Deputy Superintendents-in-charge of Railway Police Sub-Divisions, Senior Assistant Superintendent of Police, Lahore; Officers-in-charge of Recruits Training Centres.</i>
3	<i>Stoppage of increment</i>	<i>Ditto</i>	<i>Ditto</i>	<i>Ditto</i>	<i>Ditto</i>
4	<i>Entry of censure</i>	<i>Superintendent of Police and Superintendent of Police, Railways</i>	<i>Superintendent of Police Superintendent of Police Railways and (as regard Sub-Inspectors and only) Deputy Superintendents in-charge of Railway Police</i>	<i>Superintendent of Police also Senior Assistant Superintendent of Police, Lahore Superintendent of Police Railways Deputy</i>	<i>Superintendent of Police, also Senior Assistant Superintendent of Police Lahore, Superintendent of Police, Railways Deputy Superintendent-in-charge of Railway Police Sub-Division</i>

			<i>Sub Division and Officer in-charge of the Police Recruits Training Centre, Amritsar.</i>	<i>Superintendent-in-charge of the Police Recruits Training Centre, Amritsar.</i>	<i>and Officer-in-charge of the Police Recruits Training Centre, Amritsar; and subject to confirmation by the Superintendent of Police, any Assistant Superintendent of Police or Deputy of Superintendent Police, of over three years' gazetted service and officer-in-charge of the Constables Training Centre</i>
5	<i>Confinement to quarters for a exceeding 15 days</i>				<i>Superintendent Police, also Senior Assistant Superintendent of Police Lahore Superintendent of Police, Railway Deputy Superintendent-in-charge of Railway Police Sub-Division and Officer-in-charge of the Police Recruits Training Centre, Amritsar; and subject to confirmation by the Superintendent of Police, any Assistant Superintendent of Police and Deputy Superintendent of Police of over three years' gazetted service.</i>
6	<i>Extra guard, fatigue or other duty</i>				<i>Ditto</i>
7	<i>Punishment drill not exceeding 15 days</i>				<i>Ditto</i>
8	<i>Punishment drill not exceeding 10 days</i>				<i>Assistant and Deputy Superintendent</i>

9	Punishment drill not exceeding 6 days				Inspectors
10	Punishment drill not exceeding 3 days				Sub-Inspector

A Deputy Inspector-General may prohibit by special order a Superintendent officiating in a vacancy of less than six months' duration from carrying out an award made by him of dismissal, reduction, stoppage of increment, or forfeiture of approved service for increment unless and until such award has been con-firmed by him.

The Superintendent of Police, Railways] or in charge of Railway Police Sub-Divisions and Officer-in-charge, Constables Advanced Training Centre, shall exercise the full disciplinary powers of a Superintendent of Police in respect of the provisions of this Chapter, within the limits prescribes in the above table: Provided that in the case of a Government servant already appointed the publishment of dismissal, removal, reduction in rank or stoppage of increment shall be imposed by the Authority who appointed him

(3) For the purposes of these rules, the term 'major punishment shall mean the stoppage of increment, reduction in rank and dismissal and the term 'minor punishment' shall mean all other authorized punishments.'"

[Emphasis supplied]

21. A perusal of above-quoted Rule reveals that dismissal, reduction in rank, stoppage of increment are major punishments and entry of censure, confinement to quarters, extra fatigue, punishment drill etc. are minor punishments. In case of Inspectors, Disciplinary Authority to award punishment of dismissal from service is Deputy Inspector General and in case of other officers it is Superintendent of Police (for short ‘SP’).

Question No.1 - Whether respondent can award punishment other than dismissal from service where an enrolled Police officer has been sentenced to rigorous imprisonment exceeding one month?

22. Rule 16.2 of PPR provides for punishment of dismissal from service. It provides that dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect or continued misconduct is proving incorrigibility and complete unfitness for police services. State of Haryana has amended sub-rule (2) of Rule 16.2. As per Rule 16.2(2), as applicable to State of Punjab, an enrolled police officer is liable to be dismissed if his conduct leads to his conviction on a criminal charge. As per proviso to said Rule, punishing authority in an exceptional case involving manifestly extenuating circumstances for reasons to be recorded and with the prior approval of the next higher authority may impose any punishment other than dismissal. The State of Haryana has made a totally different sub-rule (2) of 16.2. As per sub-rule (2), an enrolled Police officer sentenced judicially to rigorous imprisonment exceeding one month or to any other punishment not less severe is liable to be dismissed. No discretion is left with authority. Rule 16.2 of PPR (as applicable to State of Haryana) is reproduced as below:-

“ 16.2. Dismissal. (1) Dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect or continued misconduct proving Incorrigibility and complete unfitness for police service. In making such an award regard shall be had to the length of service of the offender and his claim to pension.

Explanation.- For the purposes of sub-rule (1), the following shall, inter alia, be regarded as gravest acts of

misconduct in respect of a police officer, facing disciplinary action:

- (i) indulging in spying or smuggling activities;*
- (ii) disrupting the means of transport or of communication;*
- (iii) damaging public property;*
- (iv) causing indiscipline amongst fellow policemen;*
- (v) promoting feeling of enmity or hatred between different classes of citizens of India on grounds of religion, race, caste, community or language;*
- (vi) going on strike or mass casual leave or resorting to mass abstentions;*
- (vii) spreading disaffection against the Government; and*
- (viii) causing riots and the like.*

(2) An enrolled police officer 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. An enrolled police officer sentenced by a criminal court to a punishment of fine or simple imprisonment, or both, or to rigorous imprisonment not exceeding one month, or who, having been proclaimed under Section 87 of the Code of Criminal Procedure fails to appear within the statutory period of thirty days may be dismissed or otherwise dealt with at the discretion of the officer empowered to appoint him. Final departmental orders in such cases shall be postponed until the appeal or revision proceedings have been decided, or until the period allowed for filing an appeal has lapsed without appellate or revisionary proceedings having been instituted. Departmental punishments under this rule shall be awarded in accordance with the powers conferred by rule 16/1.

(3) When a police officer is convicted judicially and dismissed, or dismissed as a result of a departmental inquiry, in consequence of corrupt practices, the conviction and dismissal and its cause shall be published

in the Police Gazette. In other cases of dismissal when it is desired to ensure that the officer dismissed shall not be re-employed elsewhere, a full description roll, with particulars of the punishments, shall be sent for publication in the Police Gazette.”

[Emphasis supplied]

23. For the convenience and better understanding of difference between sub-rule (2) applicable to State of Haryana and State of Punjab, both are reproduced in juxtaposition as below:

State of Haryana	State of Punjab
<i>(2) An enrolled police officer 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. An enrolled police officer sentenced by a criminal court to a punishment of fine or simple imprisonment, or both, or to rigorous imprisonment not exceeding one month, or who, having been proclaimed under Section 87 of the Code of Criminal Procedure fails to appear within the statutory period of thirty days may be dismissed or otherwise dealt with at the discretion of the officer empowered to appoint him. Final departmental orders in such cases shall be postponed until the appeal or revision proceedings have been decided, or until the period allowed for filing an appeal has lapsed without appellate or revisionary proceedings having been instituted. Departmental punishments under this rule shall be</i>	<i>(2) If the conduct of an enrolled police officer leads to his conviction on a criminal charge and he is sentenced to imprisonment, he shall be dismissed:</i> <i>Provided that a punishing authority may, in an exceptional case involving manifestly extenuating circumstances for reasons to be recorded and with the prior approval of the next higher authority impose any punishment other than that of dismissal:</i> <i>Provided further that in case the conviction of an enrolled police officer is set aside in appeal or revision, the officer empowered to appoint him shall review his case keeping view the instructions issued by the</i>

<i>awarded in accordance with the powers conferred by rule 16/1.</i>	<i>Government from time to time in this behalf.</i>
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24. It is well known fact that Legislature on account of paucity of time and to tackle situations arising on account of changed circumstances delegates its power to executive to implement its policy by way of Rules. The Legislature by enactment declares its policy and rules are framed within the framework of said policy. The State of Haryana by amending sub-rule (2) of Rule 16.2 has given its imprimatur. Time and again Courts have held that punishment of dismissal from service cannot be awarded mechanically. Every conviction and order of sentence should not lead to dismissal from service e.g. if an employee is held guilty for traffic violation, raising slogan against the management or any other trivial offence and further sentenced to minor punishment of fine or simple imprisonment or both, he cannot be treated at par with a person who is held guilty for a major offence and sentenced to rigorous imprisonment. The State of Punjab as well as Haryana has issued circulars/clarifications whereby many offences have been categorised as offences involving moral turpitude. Implementing judgments of Hon'ble Supreme Court and to avoid confusion as well as maintain uniformity, the State of Haryana by way of sub-rule (2) has clarified its stand with respect to status of an employee who has been sentenced to imprisonment by criminal court. The State has made it clear that if an officer is sentenced to simple imprisonment or rigorous imprisonment up to one month, he should not be mechanically dismissed from service. The Disciplinary Authority would apply its mind and decide quantum of

punishment. The State Government by way of amending sub-rule (2) has made its policy clear. No discretion is left with the disciplinary authority if an enrolled police officer is sentenced to rigorous imprisonment of more than one month. Rigorous imprisonment of more than one month ordinarily means the accused has committed some serious offence. It is well known that getting FIR registered and particularly against an enrolled police officer is an arduous task. Percentage of conviction in India is also very low. In such circumstances, conviction of a police officer and thereafter sentence of rigorous imprisonment exceeding one month means some serious offence on the part of an officer.

25. The Home Secretary in her affidavit has attempted to justify its decision to convert punishment of dismissal from service into compulsory retirement where an officer has been sentenced to rigorous imprisonment exceeding one month. As per Home Secretary, despite categoric and lucid policy of the State, the Home Department can award lesser punishment than mandatorily prescribed in the PPR.

26. The DGP in his affidavit has deposed that authorities carry no discretion to award punishment other than dismissal from service where an enrolled police officer has been sentenced to rigorous imprisonment exceeding one month. Stand of DGP seems to be in consonance with mandate of Rule 16.2(2) of PPR. The authorities are bound to act as per mandate of Rules. The authorities can exercise discretion in case of directory provision whereas in case of mandatory provision, the authorities cannot exercise discretion. First part of Rule 16.2(2) is mandatory, thus, authorities carry no discretion.

Question No.2 - Whether review under Rule 16.28 of PPR is maintainable against appellate or revisionary orders?

27. Rules 16.2, 16.4, 16.5, 16.6, 16.7 and 16.8 deal with different kinds of punishment which may be awarded by disciplinary authority. Rule 16.24 prescribes procedure for departmental enquiry. Rule 16.25 provides that standard of proof in departmental proceedings is satisfaction of the officer that charge is established.

28. Rule 16.28 provides for review. It empowers IGP and other officers to review awards passed by their subordinates. They may call for the records of awards. They may annul, modify, confirm or enhance awards. They may conduct investigation before passing award. The State of Punjab vide notification dated 15.03.1966 amended Rule 16.28. By said amendment, State Government got power to review awards passed by IGP or any officer subordinate to him. Rule 16.28 is reproduced as below:-

“16.28. Powers to review proceedings.- (1) The Inspector-General, a Deputy Inspector-General, and a Superintendent of Police may call for the records of awards made by their subordinates and confirm, enhance, modify or annul the same, or make further investigation or direct such to be made before passing orders. The State Government may also call for the records and review the awards made by the Inspector General of Police, Punjab or by any other authority subordinate to him.

(2) If an award of dismissal is annulled, the officer annulling it shall state whether it is to be regarded as suspension followed by reinstatement, or not. The order should also state whether service previous to dismissal should count for pension or not.

(3) In all cases in which officers propose to enhance an award they shall, before passing final orders, give the defaulter concerned an opportunity of showing cause, either personally or in writing, why his punishment should not be enhanced.”

Note: - The underlined portion was added by notification dated 15.03.1966.

29. PPR came into force pre-Constitution of India. During British era, IGP was head of the Police force of any province. The State of Haryana like other States has made Director General of Police as Head of Police Force. Police Act, 1861 has been repealed and Haryana Police Act, 2007 has been brought into force w.e.f. 01.11.2008 vide notification dated 10.10.2008. As per Police Act, the State Government for overall direction and supervision of the police service appoints DGP. IGP is no more head of the department. The State Government has not made requisite amendments in the PPR. On account of introduction of Police Act and appointing DGP as head of police force, incongruity has crept in the Rules. As per situation prevailing prior to appointment of DGP as head of the department, appeal under Rule 16.29 could be filed before Deputy Inspector General of Police (in short ‘**DIG**’) or IGP. Against order of SP, appeal was maintainable before DIG and against order of DIG appeal was maintainable before IGP. It would be apt to mention here that appeal against DSP, Government Railway Police was maintainable before AIG, GRP. Rules 16.29 and 16.30 provide for appeal and these rules read as:

“16.29. Right of appeal.- (1) Appeals shall lie only against orders of dismissal or reduction or stoppage of increment or

forfeiture of approved service for increment.

(2) There shall be one appeal only from the original order, and the order of the appellate authority shall be final.

(3) A copy of the original order appealable shall be supplied to the person concerned free of cost.

(4) Any persons wishing to appeal under sub-rule (1) may apply to the Superintendent for a copy of the complete record, or any portion thereof. Such copies shall not be given during the pendency of the original proceedings for the facilitating of cross-examination or the preparation of the defence. Copies of the record of preliminary enquiries (rule 16.24 (viii)) shall not be given for purposes of appeal.

Such application shall bear a court-fee stamp of the value of two annas, unless the applicant is in Jail, and shall be accompanied by a deposit of the copying fees chargeable under the scale in force in the civil courts of the district.

(5) The copy of such record shall be given with as little delay as possible, and the Superintendent shall certify to its correctness and to the date on which it was given to the applicant.

(6) The appellate authority in cases of reduction and dismissal is as indicated in the following table –

<i>Officer by whom original order of punishment is framed</i>	<i>Appellate authority</i>
<i>Deputy Superintendent (Administrative), Government Railway Police, Deputy Superintendent, in charge of Railway Police Sub-Division.</i>	<i>Assistant Inspector-General Government Railway Police</i>
<i>Superintendent of Police, Senior Assistant Superintendent of Police, Lahore, Officer-in-Charge of Recruits Training Centre, Superintendent of Police, Armed</i>	<i>Deputy Punjab Deputy Inspector-General of Police and Assistant Inspector-General, Police Provincial Additional (designated as</i>

<i>Police, Lahaul and Spiti.</i>	<i>Commandant Provincial Additional Police)</i>
<i>Deputy Inspector-General of Police, Assistant Provincial Inspector-General Government Railway Police, Assistant Inspector-General, Additional Police (designated as Commandant. Provincial Additional Police), Assistant Inspector-General of Police (Traffic)</i>	<i>Inspector General of Police</i>

(7) Appeals against reduction shall be presented through the Superintendent of Police of the district in which the appellant is serving; but in the case of officers serving directly under a Deputy Inspector-General of Police appeals shall be forwarded through such Deputy Inspector-General of Police. Appeals against dismissal shall be forwarded direct to the appellate authority.

16.30. Rules regarding appeals.- *(1) Every appeal to the Deputy Inspector-General or Inspector-General shall be in English. It shall set forth the grounds of appeal, and shall be accompanied by a copy of the order made in the case.*

(2) An appeal which is not filed within a month of the date of the original order, exclusive of the time taken to obtain a copy of the order or record, shall be barred by limitation. The appellate authority may, however accept an appeal filed out of time, if he sees fit to do so.”

30. As per Rule 16.32, an officer may file revision against appellate orders to an authority next above the appellate authority on the ground of (i) material irregularity in the proceedings or (ii) on production of fresh evidence or (iii) plea of mercy. No application for revision was maintainable against orders of IGP. If appeal is heard by IGP, the officer may submit plea for mercy or apply for review to IGP on the ground that

fresh evidence has become available since the appellate order has been pronounced. Rule 16.32 of PPR reads as:

“16.32 Revision.- An officer whose appeal has been rejected is prohibited from applying for a fresh scrutiny of the evidence. Such officer may, however, apply within a month of the date of dispatch of appellate orders to him, to the authority next above the prescribed appellate authority for revision on grounds of material irregularity in the proceedings or on production of fresh evidence, and may submit to the same authority a plea for mercy: provided that no application for the revision of an order by the Inspector-General will be entertained. An officer whose appeal has been heard by the Inspector General may however; submit to the Inspector-General a plea for mercy or may apply to the Inspector-General for a review of his appellate order only on the ground that fresh evidence has become available since the appellate order has been pronounced. This rule does not affect the provisions of rule 16.28. Such application or plea must be in English.”

The above reproduced provision is borrowed from book published by ‘Singla Law Agency’ and ‘The Bright Law House’.

The State Government has placed on record notification dated 15.03.1966 which shows that Rule 16.32 was substituted and substituted Rule reads as: -

“16.32 Revision.- An officer whose appeal has been rejected is prohibited from applying for a fresh scrutiny of the evidence. Such officer may, however, apply within a month of the date of dispatch of appellate orders to him, to the authority next above the prescribed appellate authority for revision on grounds of material irregularity in the proceedings or on production of fresh evidence, and may submit to the same authority a plea for mercy. An officer

whose appeal has been heard by the Inspector General of Police may submit to him a plea for mercy or may apply to the Inspector General of Police for a review of his appellate order only on the ground that fresh evidence has become available since the appellate order has been pronounced. This rule does not affect the provisions of rule 16.28. Such application or plea must be in English.”

31. As per present dispensation, appeal against orders of SP is maintainable before IGP and revision against order of appellate authority (IGP) is maintainable before DGP. As per Rule 16.1 of PPR, punishing authority of officers other than Inspectors is SP. In case of Inspectors, punishment of dismissal from service can be awarded by DIG. For the reasons stated heretofore, 2017 Rules are not applicable to instant case, however, cue may be taken from Rule 15 and Appendix C. As per Appendix C, punishing/appointing authority of Inspector is IGP and for all other officers is SP. Appeal against order of IGP lies before DGP and revision before Government. At present in the State of Haryana, orders of SP by way of appeal are assailed before IGP and revision is filed before DGP. In case of Inspectors, appeal is filed before DGP and revision before Government.

32. In view of Rule 16.34 of PPR, IGP (now DGP) may review an order which he had passed acting as appellate authority. There is no provision of second appeal. Revision is maintainable on limited grounds and that too within prescribed period. As per 2017 Rules, revision against order of DGP is maintainable before State Government.

33. As per affidavit of Home Secretary, Home Department has power to review orders passed by any police officer including DGP. The

order may be appellate or revisionary. Same is opinion of learned counsel for the petitioners, however, during the course of hearing, learned State Counsel and Mr. Aman Dhir, DAG Punjab who on the asking of Court appeared and made his submissions, submitted that power of review is not maintainable against appellate and revisionary orders.

34. A conspectus of Rule 16.28 of PPR reveals that review is maintainable against awards. Any higher authority may call for the record of awards made by his subordinate. The reviewing authority may confirm, enhance, modify or annul the award. The reviewing authority may make further investigation or direct to be made before passing orders. The expression '*award*' has not been defined under the Act or Rules made thereunder. The said expression has been used below the table of Rule 16.1(2) of PPR. It provides that awards of dismissal, reduction, stoppage of increments or forfeiture of approved service for increment, made by Superintendent officiating in a vacancy of less than six months duration, may be prohibited to be carried out until confirmed by DIG. As per 16.28 of PPR, review is maintainable against awards. This Court on account of below mentioned reasons is of the opinion that power of review cannot be exercised against appellate or revisionary orders:

- i. Power of review is *suo motu*. Rule does not provide for review on the application of aggrieved party. There are many enactments where power of review/revision can be exercised on the request of aggrieved party besides *suo motu*. Rule 16.28 provides only for *suo motu* review. There

is reason for vesting senior officers with the power of review. There is always possibility that on account of one or another reason disciplinary authority may pass award contrary to facts or law. The said order may necessarily require to be modified. The aggrieved officer may prefer an appeal and thereafter revision, however, State has no right to file appeal or revision. State cannot be left remediless. To overcome that situation, the Legislature has empowered every senior officer to review awards made by his subordinates. Normally, power of review is exercised by same authority whereas Rule 16.28 empowers higher officer to review order of subordinate. In the common judicial parlance, use of expression '*review*' in Rule 16.28 seems to be a misnomer.

- ii. In Rule 16.28 expression '*awards*' has been used. The Legislature has not used expression 'any order or decision' made by subordinates. The expression 'awards' must be given due weightage and full effect. It should be read in the light of attending and surrounding circumstances. If expression '*awards*' is declared to include appellate or revisionary orders, it would amount to re-writing the provision which is impermissible.
- iii. Under Rule 16.32 of PPR, power of revision is prescribed. Revision is maintainable against appellate orders before an officer next above the appellate authority. Though as per

marginal note, Rule 16.32 provides for revision, however, it also provides for review of appellate order by appellate authority itself. It makes it clear that power of review in case of appellate order can be exercised by appellate authority itself and not any other higher authority. If it is held that order of appellate authority can be reviewed by authority itself as well as higher authority, there would be disharmony and chaos. As per Rules 16.28 to 16.32, highest authority is IGP. He has power to review orders of his subordinate under rule 16.28 and own appellate orders under rule 16.32. To avoid confusion of powers of IGP to review orders, in the rule 16.32 it has been clarified that it would not affect provisions of Rule 16.28.

- iv. As per Rule 16.29(2) there shall be only one appeal against original order and order of appellate authority shall be final. If it is held that order of appellate authority can be reviewed by any senior officer, it would make sub-rule (2) of 16.29 redundant. It is settled proposition of law that no provision can be interpreted in such a manner that any other provision of the statute is made redundant/otiose.
- v. Rule 16.28 is placed prior to Rule 16.29 & 16.32 means power of review is prescribed prior to provision of appeal and revision. There is no hard and fast rule that a particular provision should be at a particular place, however, in the instant case this fact needs to be taken care of. Had

intention of the Legislature been to empower higher officer to review appellate and revisionary orders, Rule 16.28 must have been placed after Rules providing for appeal and revision.

- vi. Rule 16.28 empowers reviewing authority to make further investigation. He himself can make investigation or direct to be made. It would amount to putting the cart before the horse if investigation is conducted after adjudication of revision by head of the department i.e. DGP. The investigation by higher officer may be conducted at the initial stage. In the legal jurisprudence, scope of review is very limited. Rule 16.28 endows reviewing authority with such powers which are not even vested in appellate and revisionary authority. The appellate authority can entertain appeal against order of dismissal, reduction in rank or stoppage of increments whereas power of review can be exercised against any award. Revision is maintainable only on three grounds i.e. (i) material irregularity in the proceedings or (ii) on production of fresh evidence or (iii) plea of mercy. There is no such limitation under Rule 16.28. Revision under rule 16.32 can be filed within one month from the date of receipt of copy of appellate order whereas there is no limitation period for review.
- vii. As per Rule 16.32, the appellate authority may review its order if fresh evidence has become available after passing

of appellate order. It means appellate authority cannot review its order based on evidence which were available at the time of passing order or any other ground. As per Rule 16.28, the higher authority is empowered to review order on any ground. There is no limitation. It shows that intention of Legislature was to empower higher authorities to undo any mistake committed by punishing authority. The State has no remedy to file appeal/revision, thus, power of *suo motu* review is vested in higher authorities.

- viii. The power of review may be exercised by any officer with respect to award made by his subordinate. If a delinquent files an appeal before DIG against order of SP, he has right to file revision against order of DIG before IGP as per original scheme. As per present dispensation, he can file appeal before IGP and revision before DGP. If contention of petitioners is accepted, an officer may choose to file review against appellate order instead of revision. Scope of review is unlimited whereas revision is maintainable on very limited issues. Thus, if the officer would file revision before DGP, scope of interference would be very limited whereas if review is filed, scope would be unlimited. An authority which cannot conduct fresh investigation while acting as appellate or revisionary authority would be free to conduct or get conducted fresh investigation.

ix. As per original Rule 16.32, no revision was maintainable against an order of IGP. By notification dated 15.03.1966, Rule 16.32 has been amended and as per amended provision, the restriction of revision against order of IGP has been withdrawn. The simple reason is that sometimes IGP (now DGP) acts as an appellate authority and in that situation, there would be only remedy of review before IGP. By amendment, the legislature granted opportunity to file revision before State Government. This amendment further makes it clear that State Government can act as revisionary authority against orders of IGP/DGP, however, cannot act as reviewing authority. This fact is further supported with 2017 Rules which clearly provide that revision would lie before State Government where DGP acts as an appellate authority e.g. appellate authority of Inspector is DGP and revision lies before State Government.

x. As per amended Rule 16.28, the State Government has got power to review awards of IGP and officers subordinate to him. At the time of amendment of Rule 16.28, IGP was head of the Police Force. He may act as disciplinary authority because Rule 16.1(2) provides that order of punishment may be passed by the officers mentioned in the Table or by any officer of higher rank, meaning thereby, power of DIG to inflict punishment may be exercised by

IGP. The State Government appoints DGP and other officers who exercise such powers and perform such functions as may be prescribed. The State Government as per Rule 16.28 is empowered to review orders of IGP and officers subordinate to him means State Government can review even order of SP or DIG. The intention is only to empower the State Government to correct mistake committed by SP/DIG/IGP as disciplinary authority. There was no reason to empower State Government to review order of SP if object was to entertain review even against appellate and revisionary orders.

Question No.3 - Whether reviewing authority under Rule 16.28 of PPR has power to remand the matter back to subordinate authority?

35. As per Rule 16.28 the reviewing authority has power to confirm, enhance, modify or annul the award. The Reviewing Authority is also empowered to conduct further investigation or direct to be made before passing orders. During last one year, this Court has noticed that reviewing authority is remanding the matters back to Appellate/Revisionary Authorities. The reviewing authority has power to confirm, enhance, modify or annul the award, however, there is no power to remand. In the absence of specific provision/power, the reviewing authority has no power to remand the matter back to authority below it. The Legislature has not empowered the reviewing authority with power to remand because reviewing authority is endowed with power to make

further investigation. It means reviewing authority if finds any deficiency in the enquiry or orders of disciplinary authority, it may conduct investigation and based on its outcome pass order. It is apposite to mention here that authorities constituted under a particular statute may exercise ancillary powers to exercise their substantive power, however, authorities do not carry inherent powers and cannot exercise power which is not vested in them. The Legislature has not vested reviewing authority with power to remand though power to conduct investigation has been conferred.

36. This Court is of the considered opinion that reviewing authority should not remand the matter. In case of doubt, it should conduct investigation and thereafter pass final order.

37. In the wake of above discussion and findings, the question raised heretofore are resolved as under:-

- i. The respondent cannot award punishment other than dismissal from service where an enrolled Police officer has been sentenced to rigorous imprisonment exceeding one month.
- ii. Review under Rule 16.28 of PPR is not maintainable against appellate or revisionary orders.
- iii. Reviewing Authority under Rule 16.28 of PPR has no power to remand the matter back to subordinate authority.

38. In the backdrop, *CWP-14996-2025* is liable to be dismissed and accordingly dismissed.

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

CWP-23420-2025:

40. The petitioner is seeking setting aside of notice dated 07.08.2025 (Annexure P-5) whereby Superintendent of Police, Rewari has withdrawn office order dated 01.03.2025 vide which annual increments of 2023 and 2024 were restored. The petitioner joined Haryana Police as Constable in September' 2023 and she was promoted from time to time. She was Investigating Officer of FIR No. 281 dated 06.06.2022, under Sections 376(2), 354D and 506 of IPC, registered at Police Station, Model Town, Rewari. The respondent-Department initiated inquiry against her alleging delay in registration of FIR. The Superintendent of Police Rewari awarded her punishment of stoppage of one annual increment vide order dated 23.02.2023. She preferred appeal which was rejected by Appellate Authority vide order dated 16.03.2023. She preferred Revision before Director General of Police, Haryana which was also rejected vide order dated 26.06.2023. She preferred mercy appeal before the Government which was allowed and punishment order was set aside vide order dated 14.02.2025. She was also implicated in FIR No.221 dated 19.09.2022, under Sections 166, 323, 342, 384, 506 of IPC. She was subjected to departmental enquiry. She was awarded punishment of stoppage of three annual increments with permanent effect vide order dated 21.01.2023. She preferred appeal before the Appellate Authority which was dismissed vide order dated 10.02.2023. She preferred revision before Director General of Police, Haryana which was dismissed vide order dated 26.06.2023. She preferred mercy appeal before the Government which was allowed vide order dated 14.02.2025.

Though in view of findings recorded heretofore, review in the name of mercy petition was not maintainable, yet, orders passed by Home Department cannot be ignored till quashed by competent authority. The Home Department in its reply has justified its orders and these orders are not under challenge. Superintendent of Police is bound to follow and honour orders of Home Secretary. He has no authority to set-aside or ignore orders of Home Department. Accordingly, impugned notice dated 07.08.2025 issued by Superintendent of Police, Rewari is hereby set-aside.

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

42. Before parting with the judgment, I deem it appropriate to direct '*Singla Law Agency*' to incorporate in its books, amendments made by Punjab and Haryana States in the Punjab Police Rules, 1934.

(JAGMOHAN BANSAL)
JUDGE

September 23, 2025
Deepak DPA

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