

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 323 of 2015**

Mohammad Ajam Khan son of Shri Moh. Moiezuddin Khan, aged about 43 years, Constable No. 245, 6th Battalion Chhattisgarh Armed Forces F-Company Camp Shanna District Jashpur-Nagar (Chhattisgarh).

---- Appellant

Versus

1. State of Chhattisgarh, through the Secretary, Inspector General of Police, Police Headquarter Raipur, District Raipur Chhattisgarh.
2. Deputy Director General of Police, Chhattisgarh Armed Forces Range (Head Quarter) Bhilai, Bhilai Chhattisgarh.
3. Commandant, 6th Battalion, Chhattisgarh Armed Forces Raigarh, Raigarh Chhattisgarh.

---- Respondents

For Appellant	:	Shri T.K.Tiwari, Advocate.
For Respondent/ State	:	Shri B. Gopa Kumar, Deputy Advocate General

**HON'BLE SHRI NAVIN SINHA, CHIEF JUSTICE &
HON'BLE SHRI P. SAM KOSHY, J.**

Judgment on Board**Per NAVIN SINHA, C.J.****30/6/2015**

1. The present appeal arises from order dated 11.5.2015 dismissing Writ Petition (S) No. 2301 of 2008 declining to interfere with the order of dismissal from service dated 10.1.2005, the appellate order affirming the same dated 7.4.2005 and the order of the Director General of Police, Chhattisgarh, dated 24.7.2006 dismissing the mercy appeal.
2. Learned Counsel for the Appellant submitted that the period of alleged unauthorised absence was very short. He had proceeded on sanctioned leave and had submitted an application for extension along with medical evidence. All these aspects have not been properly considered. The last submission was that the quantum of punishment was

disproportionate and not commensurate to the absence of five days.

3. Learned Counsel for the State opposed the application submitting that the order of the Learned Single Judge is well reasoned and discussed which calls for no interference.

4. We have considered the submissions on behalf of the parties.

5. The Appellant was Constable in the State Police Force, a disciplined uniformed service. For reasons of unauthorised absence for the period as mentioned in paragraph 2 of the order under appeal which was much in excess of five days, he was served with a charge sheet and regular enquiry constituted. Pursuant to submission of the report, he was dismissed from service. The Appellate Authority declined to interfere so did the Director General of Police. Earlier also, he was dismissed from service on identical charges on 31.5.2002 but on representation, was reinstated on 26.9.2002. Despite grace granted to him, he joined on 18.2.2004. About 20 minor punishments had also been imposed on him.

6. The Learned Single Judge has adequately considered Rule 17 of the Chhattisgarh Civil Services (Leave) Rules, 1977 that the application for leave on medical ground had to be submitted within 7 days of proceeding on leave. If the application was not submitted within the prescribed period, the absence had to be treated as unauthorised. The Appellant had not submitted such application within the time prescribed.

7. We find no reason to take a different view from that taken by the Learned Single Judge that the Court cannot re-appreciate the evidence in a domestic enquiry to arrive at its own findings unless they are perverse. Presently, such is not the case. Likewise, the Learned Single Judge, in our opinion, has rightly opined that the jurisdiction under Article 226 of the Constitution of India is not to be lightly exercised in matters of discipline in the uniformed police service. We find no error in the facts of the case with regard to the conclusion arrived at by the Learned Single Judge that the quantum of punishment was not the jurisdiction of the Court unless it was

shockingly disproportionate to the conscience of the Court which was not the case presently.

8. In the entirety of the facts and circumstances, we find no illegality in the order under appeal. The appeal is dismissed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE