
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.16295 of 2010

Date of decision: 30.11.2015

Jasbir Kaur and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. G.S.Sullar, Advocate for
Mr. H.S.Sullar, Advocate for the petitioner.

Mr. L.S.Virk, Addl. Advocate General, Punjab for
the respondents.

G.S.SANDHAWALIA, J. (Oral)

The deceased petitioner, who was Constable, represented through his legal representatives, challenges the order dated 3.1.2007 (Annexure P/1) passed by respondent no.5 by which he was dismissed from service. The same was on account of his absence of 77 days from duty. Challenge has also been raised to the subsequent orders whereby his appeal and revision on the departmental side have been declined by the respondents.

A perusal of the termination order would go on to show that the husband of petitioner no.1 had gone absent from duty from 6.2.2006 to 23.4.2006 without permission. A departmental enquiry was held in which the petitioner did not join. Thereafter, a show cause notice was issued to the petitioner and the same was delivered to him on 16.12.2006 to which no reply was submitted by the petitioner. The punishing authority had noticed that the petitioner was a habitual absentee and 13 punishments were imposed upon him for the period of forfeiture of service to the tune of 27 years which was more than what he had actually served. Keeping in view the above fact, the punishment authority came to the conclusion that the petitioner was not entitled for any pensionary benefits. Relevant observations read as under:-

“On perusal of above it has been found that the delinquent official is habitual of remaining absent repeatedly. In this regard his 27 years service has been forfeited. The delinquent official is not

suitable for taking any lenient view. Taking lenient with such an employee will have bad effect on other employees & administration. Police department is a disciplined organization, in which to remain willful absent is a serious lapse which is punishable misconduct. Besides this the delinquent official has not submitted his side of aspect. Having no other remedy with me I confirm the order of punishment proposed in the show cause notice and due to serious lapses on his part, I dismiss C-2 Sukhwinder Singh No.261/Ludhiana from service today dated 3.1.2007 afternoon. Because the delinquent official did not perform any official duty during the absent period, therefore, his absent period dated 6.2.2006 to 23.4.2006 is included in non duty period. Before issuing the order of termination from service, I have also considered his right of pensionary benefits. But the present behaviour of the delinquent is so grave that he is not rightful owner to receive pensionary benefits and the punishment inflicted is the fulfillment of justice. Once copy of this order be delivered to C-2 Sukhwinder Singh number 261/Ludhiana free of cost & its acknowledgment be kept in the record.”

The appeal was filed after a period of one year which was held to be time barred by the Deputy Inspector General of Police, Ludhiana Range, Ludhiana. The ground that there was a medical ailment was also rejected on the ground that the delinquent official did not join the enquiry proceedings vide order dated 25.2.2008 (Annexure P/2). The revision thereafter was also dismissed on 10.5.2008 (Annexure P/3) by the Inspector General of Police, Zonal-II, Jalandhar by holding that it was proved the employee was incorrigible and unfit for the police job. The mercy petition met the same fate on 27.3.2009 (Annexure P/4).

The sequence of events would go on to show that there was absence for over two months and 17 days of the husband of petitioner no.1 who was an employee of the disciplined force .

Counsel for the petitioners has vehemently argued that length of service of the husband of petitioner no.1 from 1989 to 2007 was not taken into consideration. The fact remains that the service record of the delinquent official was also examined and it was noticed that as many as 13 punishments were imposed on account of various absences total pertaining to 846 days which was noticed by the Inspector General of

Police while disposing of the revision. The punishing authority also noticed his right of pension and his conduct to deny him the said benefit. The same are produced below:-

Sr. No.	Allegations	Punishments
1.	In the year 1999 due to remaining absent for 5 months, 3 days, 15 minutes.	In the year 2001 service of 5 years was forfeited.
2.	For remaining absent for 5 months 11 days in the year 2000	In the year 2001 he was censured.
3.	In the year 2001 for remaining 99 days 10 minutes absent.	In the year 2002 his service of 5 years was forfeited.
4.	In the year 2002 for remaining absent 10 days 30 minutes.	In the year 2002 he was awarded punishment of censure.
5.	In the year 2001 on account of remaining absent for 57 days 22 hours, 25 minutes.	His three years service was forfeited.
6.	In the year 2001 for remaining absent for 23 hours 45 minutes.	In the year 2002 he was awarded punishment of censure.
7.	In the year 2002 for remaining absent for 39 days 7 hours.	In the year 2003 his two years service was forfeited.
8.	In the year 2002 for remaining absent for 63 days 2 hours 55 minutes.	In the year 2003 his three years service was forfeited.
9.	In the year 2002 for not attending the general parade (under suspension period)	In the year 2003 he was awarded punishment censure.
10.	In the year 2003 for remaining absent for 269 days, 5 hours 20 minutes.	In the year 2004, his six years service was forfeited.
11.	In the year 2009 for not attending the general parade.	In the year 2004 his one year service was forfeited.
12.	In the year 2003 for remaining absent for 5 months, 26 days, 5 minutes.	In the year 2005 his two years service was forfeited.
13.	In the year 2001 for remaining absent for 18 days, 11 hours, 4 minutes.	In the year 2005 he was awarded punishment of censure.

A perusal of the chart above would go on to show that the deceased-employee had 18 years of service but the chart reproduced above would go on to show that due to his absence on various periods

pertaining from 18 days to 269 days, he was awarded various punishments of forfeiture of service which, as noticed above, totalled to 27 years. The same were more than the service which he had rendered. Nothing was shown to this Court that the said orders were challenged in any manner during his service period and were set aside. The said absences were from the period 2001 to 2005, just before he was finally dismissed. In similar circumstances, a Division Bench of this Court in ***Amar Singh (Constable) vs. State of Punjab, 2006 (4) SLR 477*** has held that absence of a uniformed personnel for so long did not deserve any leniency and the reduction of service by forfeiture would render the service of the petitioner to be less than the qualifying service for pension.

Accordingly, it was held that there was no scope for interference in the order dismissing the employee on account of absence from duty for a period of 85 days by keeping in mind the fact that the police force was a disciplined force and remaining absence would be considered as a gross misconduct.

In such circumstances, keeping in view the settled principle of law that in a disciplined force like the police even absence of short period is sufficient ground for termination of service. Accordingly, there is no scope for interference in exercise of jurisdiction under Article 226 of the Constitution of India.

Accordingly, finding no merit in the present petition, the same is hereby dismissed.

November 30, 2015
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(G.S.SANDHAWALIA)
Judge