

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 13860 of 2015
Date of decision July 30, 2015

Omparkash

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Manoj Chahal, Advocate
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (Oral)

The challenge in the present petition is to the impugned order dated 12.10.2010 (Annexure P-4) and 8.12.2014 (Annexure P-6) whereby the petitioner has been dismissed from service on the ground of absence and appeal filed against the same had also been dismissed.

Learned counsel for the petitioner submits that petitioner was appointed in the year 1982 and his services were regularized on 1.01.1987 and continued till 1.9.2008. The petitioner faced mental disorder and failed to report for duty on 1.9.2008. It has

been stated that the petitioner remained absent for a period from 1.9.2008 to 12.10. 2010.

Learned counsel for the petitioner further submits that the petitioner was ill and in this context letters dated 7.1.2010 and 26.5.2010(Annexure P-1 and P-2) had been written by his wife to the authorities regarding illness of her husband and at that time the petitioner was served with charge sheet. He was not in a position to reply. It is only at the stage when the impugned order was passed within one month when appeal was filed on 14.11.2010 he was well and he had attached all the documents and certificate issued by the doctor, which are not noticed by the Court while dismissing the appeal. He further submits that punishment of dismissal is harsher.

It is a matter of record that without obtaining any leave he remained absent from duty w.e.f 1.9.2008 to 12.10.2010 and in this regard the department is stated to have sent numerous letters to report for duty but the petitioner had not joined. Even charge sheet was served but neither the petitioner appeared nor filed any reply, which fact is evident from the impugned order dated 12.10.2010 (Annexure P-4). Having left with no other option, the Executive Engineer-competent authority invoked the provisions of Rule 7 of Haryana Civil Service (Punishment and Appeal) Rules, 1987 dismissed the services of the petitioner.

I have heard learned counsel for the petitioner and appraised the paper book.

The petitioner is stated to have filed an appeal within one month i.e. on 14.11.2010 and along with it attached

photocopy of certificate issued by the doctor with regard to his ailment, the contention that the documents have not been taken note of while dismissing the appeal vide order dated 8.12.2014 (Annexure P-6) and the fact that the order in appeal is lacking reasons does not carry any weight, for the reason that on perusal of photocopy of the certificates, which has been shown to the Court during the course of hearing, blanks have been filled up by a doctor having degree of GAMS but not on any letter head even the place of his practice is wanting. The postal certificate Annexure P-1 and P-2 vide which information purported to have been sent do not clearly show the date of despatch. The certificate issued by the doctor (GAMS) annexed with the appeal as well as in the present writ petition, there is no prescription of medicine to show that what kind of medicine he had been taking for alleged ailment.

Remaining absent without sanction of leave for a long period, in my view, is a serious misconduct, particularly when no request had been made during the intervening period for obtaining leave de facto. Even otherwise after passing of the impugned order immediately within one month the appeal had been filed, it appears that the petitioner had become hale and hearty even in the appeal also there is no mention of that when did he become all right to seek vindication of his right.

The impugned orders have been passed in accordance with law. There is no illegality and perversity in the same.

The arguments raised and grounds taken in the writ

petition are wholly misconceived. Accordingly, the writ petition is dismissed.

(AMIT RAWAL)
JUDGE

July 30, 2015
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