

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

CWP No. 23255 of 2015
Date of decision: 02.11.2015

Jatinder Singh

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

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

Present: Mr. Amit Dhawan, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present writ petition is to the order dated 05.06.2006 (Annexure P-1) whereby, the petitioner, who was a Constable, was dismissed from service on account of absence of 212 days by respondent no. 5.

It was noticed the fact that the petitioner, who was on guard duty with State Bank of Bikaner and Jaipur at Madhopuri, had not reported back after taking his weekly rest on 20.09.2004. An Inquiry Officer was accordingly appointed and notices were issued to the petitioner, who did not even come forth before the Inquiry Officer. The report was accordingly submitted against the petitioner and a show cause notice dated 05.05.2005 was issued for the proposed punishment of dismissal. The petitioner did not submit any reply. A second notice was issued on 01.03.2006, which was received but no reply was given even though the petitioner had thereafter, in the meantime, reported for duty on 21.04.2005. It was noticed that he was thereafter again absent from 02.05.2005. Accordingly, the dismissal order was passed and the period of his absence from 21.09.2004 to 21.04.2005

was treated as leave without pay. The said orders have been upheld on 29.01.2009 by respondent no. 4 and on 07.08.2007 by respondent no. 3 (Annexure P-3), which are also subject matter of challenge.

Counsel for the petitioner has vehemently submitted that thereafter, the mercy petition was filed before respondent no. 2 on 13.08.2013, which has now also been rejected, though the same is not under challenge.

It is settled principle that a person in uniform is to maintain strict discipline. In the present case, there is a long absence which is not justified in any manner, though an argument now has been raised that his parents had died on 30.04.2003 and 08.11.2003 (Annexures P-7 and P-8). The same also cannot be justified in any manner since absence was for a subsequent period almost a year later starting from 21.09.2004. The petitioner did not even bother to associate himself with the departmental proceedings and had chosen to stay away on both occasions including when show cause notice was issued. The petition is also patently time barred as the last statutory appeal was dismissed on 07.08.2007 and the present writ is being filed after 8 years. Mere pendency of a mercy petition without any statutory provision would not extend the period of limitation. It is settled principle that the law is for the vigilant and not for those who sleep over their rights.

In such circumstances, the order of dismissal which has been upheld does not suffer from any infirmity which can be interfered with under Articles 226 and 227 of the Constitution of India and the present writ petition is accordingly dismissed.

02.11.2015
shivani

(G.S. SANDHAWALIA)
JUDGE