

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

**CWP No.25097 of 2015
Date of Decision:02.12.2015**

HABIB KHAN

..... Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

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

Mr. Harish Rathee, Sr. DAG, Haryana.

DEEPAK SIBAL J. (ORAL)

Through the present petition, the petitioner seeks quashing of the order of punishment dated 08.08.2014, the order dated 22.04.2015 passed by the Appellate Authority and the order dated 18.08.2015 passed in the revision petition against the above mentioned two orders.

The relevant facts which needs to be noticed are that the petitioner was serving the Haryana Police as a Constable when he was departmentally proceeded against for being unauthorisingly absent for 367 days. In the enquiry he was found guilty and on the basis of said guilt, punishment of stoppage of two increments with temporary effect was inflicted upon him. The appeal against the punishment order was dismissed and the revision petition against the order of appellate authority also met the same fate.

I have heard learned counsel for the parties and with their able assistance, have also perused the record.

No procedural lapse or violation of any rule has been pointed out. It is further not controverted by the learned counsel for the petitioner that the petitioner was granted adequate opportunity at all stages of the disciplinary proceedings conducted against him.

The petitioner who being a member of a disciplined force has been found unauthorisingly absent for 367 days. For this act of misconduct, according to me, he was rightly awarded a penalty of stoppage of two increments with temporary effect.

Learned counsel for the petitioner submits that the petitioner was absent for 367 days for attending a Diploma course in Sports Coaching in the discipline of Football at NIS, Patiala for which he had applied for permission/leave which remained pending. He further submits that an identically situated person namely Kaptan Singh who was also attending the same diploma course though in a different discipline was granted permission during the course whereas the petitioner was not. It was thus submitted that the case of the petitioner has been discriminated.

This submission made by learned counsel for the petitioner needs to be considered only to be rejected as the aforementioned Kaptan Singh was in fact granted permission for undergoing the diploma course though a bit belatedly whereas the petitioner never was granted any leave or permission. Once there was no specific permission/sanctioned leave in favour of the petitioner, he could have not remained absent from duty. Merely applying for permission or leave without there being a formal order with regard to the grant thereof would be absolve the petitioner of his misconduct.

In view of the above, the present petition being bereft of any merit is ordered to be dismissed.

No costs.

(DEEPAK SIBAL)
JUDGE

02.12.2015
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