

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

CWP No. 5494 of 2015 (O&M)

Date of decision: 28.04.2015

Nidhan Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Vinay Puri, Advocate for the petitioner.

Jitendra Chauhan, J. (Oral)

By way of the instant writ petition, under Articles 226/227 of the Constitution of India, the petitioner seeks quashing of order dated 17.12.2013 (Annexure P-3), vide which the punishment of 25% cut in pension of the petitioner has been imposed and the absence period has been treated as dies-non.

The learned counsel for the petitioner states that the petitioner was appointed as PCMS Class-II officer with the respondent-Department on 08.08.1970. Due to prolonged illness of his father, the petitioner proceeded on earned leave from 24.03.1981 to 22.04.1981 which was duly sanctioned by the competent authority.

The father of the petitioner expired on 27.03.1981 due to which the petitioner again sought extension of leave from 23.04.1981 to 31.08.1981. The petitioner was not aware of the rejection of his application for extension of leave. After the expiry of leave, the petitioner submitted his joining report to the Sr. Medical Officer, PHC Bilga but he was informed by the SMO that the post of Medical Officer has already been filled up. Thereafter, the petitioner was charge sheeted and dismissed from service, vide order dated 18.08.1989 (Annexure P-1). Aggrieved against the dismissal order, the petitioner had filed a civil suit, which was decreed in favour of the petitioner, vide judgment and decree dated 25.04.1996. Thereafter, the department filed an appeal before the Court of learned District Judge and the judgment dated 25.04.1996 was modified, wherein the department was given liberty to conduct fresh enquiry against the petitioner. It is further contended that the judgment dated 25.04.1996 has been rightly passed by holding that the impugned order dated 18.08.1989 (Annexure P-1) is illegal, null and void. Even, the petitioner was not asked to submit his comments on the fresh enquiry and the department had straight away come to the conclusion and passed the impugned order dated 17.12.2013 (Annexure P-3), which deserves to be quashed.

Heard.

Perusal of the record would reveal that the petitioner was

charge sheeted for remaining absent from duty and for doing private practice in violation of Government orders. It is not disputed that the petitioner had proceeded on leave from 24.03.1981 to 22.04.1981 on account of illness of his father but after the expiry of his leave period, he did not join his duties. The father of the petitioner expired on 27.03.1981. The petitioner willfully absented himself from his duties. The petitioner sought extension of leave from 23.04.1981 to 30.06.1981 which was found to be not justified to avail the leave for the said period. Though the Department has allowed the petitioner to join his duties but he did not turn up for joining the duties. On 31.05.2002, the petitioner attained the age of superannuation on 58 years. Charge of absence from duty and disobeying or violating the Government orders were found to be proved against the petitioner. Thus, vide impugned order dated 17.12.2013, he has been allowed to be retired with 25% cut in the pension.

Keeping in view the fact that the order dated 17.12.2013 (Annexure P-3) deals with all aspect of the matter and proper procedure was followed, the present petition being without any merit is hereby dismissed as such.

28.04.2015

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(JITENDRA CHAUHAN)
JUDGE

Whether to be referred to reporter : Yes/No

