

**IN THE HIGH COURT OF JUDICATURE FOR THE STATES OF
PUNJAB AND HARYANA, AT CHANDIGARH**

Letters Patent Appeal No. 1574 of 2013

Date of Decision: August 17, 2015

Santoshi Lal

---Appellant

Versus

Punjab and Haryana High Court

---Respondent

CORAM: Hon'ble Mr. Justice Satish Kumar Mittal

Hon'ble Mr. Justice Mahavir S. Chauhan

Present: Shri Onkar Rai, Advocate, for the appellant.

Shri Vikas Chatrath, Advocate, for the respondent.

1. *Whether Reporters of local papers may be allowed to see the judgment? Yes/No*
2. *To be referred to the Reporter or not? Yes/No*
3. *Whether the judgment should be reported in the Digest? Yes/No*

Mahavir S. Chauhan, J.

01. Appellant, who was appointed as a Peon on 10.01.2002 and had worked in various branches of the High Court, on 14.04.2006, was asked by the Private Secretary to the Hon'ble Judge to perform the duties at the residence of the Hon'ble Judge but he left the residence of the Hon'ble Judge at 06.00 P.M. without informing anybody at the house and on the next day, i.e., 15.4.2006, also, remained absent without

getting any prior permission from the Hon'ble Judge, and thereby violated the instructions dated 22.09.2005 issued by this Court. On 17.04.2006, he flatly refused to obey the orders of the Hon'ble Judge and on that basis, it was observed that he was disobedient and a work shirker. Appellant was called upon to explain his aforesaid conduct vide memorandum dated 29.04.2006 (Annexure P-1/A) which was replied to by him vide reply dated 07.09.2006 (Annexure P-3). In response to another memorandum dated 05.05.2007 (Annexure P-4) seeking the same explanation, appellant submitted reply dated 14.05.2007 (Annexure P-5) stating that he was not feeling well and had left the residence of Hon'ble Judge on 14.04.2006 at 06.00 P.M. by informing the Private Secretary attached to the Hon'ble Judge and on the following day also he could not perform his duty owing to his illness. The explanation of the appellant was not accepted and accordingly a charge sheet dated 24.12.2007 (Annexure P-6) was served upon him. Appellant filed reply to the charge sheet, wherein he stated that the High Court was closed on account of vacations from 7.4.2006 to 14.4.2006 and further that he being unwell, had gone home. The reply submitted by the appellant was found to be unsatisfactory and, accordingly, a regular enquiry was conducted in the matter wherein the appellant was given due opportunity to defend himself. Inquiry Officer, vide report dated 08.04.2010 (Annexure P-8) returned findings against the appellant. A show cause notice dated 23.08.2010 (Annexure P-10), alongwith copy of the enquiry report, was then served upon the appellant to which he submitted reply dated 16.09.2010 (Annexure P-11) which was found to be unacceptable. Ultimately, vide order dated 13.01.2011 (Annexure P-12) punishment of

removal from service with immediate effect, was awarded to the appellant. Service appeal preferred by the appellant was dismissed vide order dated 28.03.2012 (Annexure P-13). Even his mercy appeal dated 26.09.2012 (Annexure P-14) came to be dismissed and conveyed to him vide memorandum dated 04.03.2013 (Annexure P-15). Appellant then brought Civil Writ Petition No. 10381 of 2013 challenging the memorandum dated 05.05.2007 (Annexure P-4), charge sheet dated 24.12.2007 (Annexure P-6), enquiry report dated 08.04.2010 (Annexure P-8), show cause notice dated 23.08.2010 (Annexure P-10), order dated 13.01.2011 (Annexure P-12) ordering his removal from service with immediate effect, order dated 26.09.2012 (Annexure P-14) dismissing service appeal and memorandum dated 04.03.2013 (Annexure P-15) dismissing the mercy appeal preferred by him.

02. After hearing learned counsel for the appellant, learned Single Judge, vide order dated 16.05.2013, dismissed the Civil Writ Petition brought by the appellant.

03. To assail order dated 16.05.2013 passed by the learned Single Judge, appellant has invoked Clause X of the Letters Patent by way of the instant intra court appeal.

04. We have heard learned counsel for the parties and have also examined the record.

05. Learned counsel for the appellant though has not been able to point out any illegality or irregularity in the order of the learned Single Judge and the procedure adopted for imposition of punishment upon the appellant but has urged for leniency by saying that the appellant is a poor person and has a big family to support. The submission, however, has failed

to impress us.

06. Learned Single Judge, while dismissing the Civil Writ Petition brought by the appellant, has observed as under:

“The assertion of the petitioner that he was unwell and, therefore, could not attend to his duties, has also been disbelieved on the ground that he could have either intimated to the Hon'ble Judge about his ill health or could have intimated the High Court establishment. The petitioner was given due opportunity to explain his conduct on the basis of enquiry, which came against him and his explanation, which he had submitted, had also been taken into consideration. However, the same was not found to be satisfactory and accordingly the order of removal was passed by the competent authority.

Nothing has been pointed out by counsel for the petitioner at the time of arguments to show that there was any illegality or irregularity in conducting the departmental enquiry against the petitioner. Firm findings have been recorded by the Enquiry Officer, which have been duly considered by the competent authority and having come to a conclusion that the petitioner has in fact misconducted himself, the penalty, as has been imposed upon him, cannot be said to be illegal or disproportionate to the misconduct attributed to the petitioner.

That apart, in the service appeal, which was preferred by the petitioner, the appellate Authority, in its order dated 28.3.2012 has strongly observed against the conduct of the petitioner, the operative part of which is as follows:-

"Questioning the said decision, the appellant has put in appearance in person. He was asked as to whether he would like the services of a counsel, to which he replied in the negative and stated that he is willing to prosecute his case himself.

However, no substantial argument has been addressed before us except for saying that the appellant is remorseful of his conduct.

A brief interaction with the appellant was unavoidable, but we are not satisfied with the apology that he has tendered, because in his response to the question put to him, the appellant was evasive and not forthright in committing himself to perform his duties diligently in future in the event of an opportunity being given to him. We are thus, convinced that the decision of the Committee does not need to be interfered with particularly so, when no issue regarding the illegality of the decision or the process leading to the decision has been raised before us.

The appeal is thus dismissed.

March 28, 2012

Sd/- Mahesh Grover, Judge
Sd/- K.C.Puri, Judge "

In the light of the above observations of the appellate authority, the petitioner is still not wanting to improve himself. The mercy appeal, as preferred by the petitioner, has, therefore, been rightly dismissed by the competent authority.

In view of the above discussion, I do not find any merit in the writ petition and the same is accordingly dismissed.”

07. Needless to stress that every employee is bound to follow reasonable and lawful orders of his employer which are in connection with his work. Failure to do so may be a ground for dismissal/removal from service or other disciplinary actions. Quantum of punishment is within the exclusive domain of the competent punishing authority. Conduct exhibited by the appellant shows that he is recalcitrant, insolent, insubordinate and

disobedient and as recorded in the order dated 28.03.2012 he was not forthright in committing himself to perform his duties diligently in future in the event of an opportunity being given to him.

08. In view of the above, no fault can be found with the order of learned Single Judge dismissing appellant's writ petition. The appeal, therefore, fails and is dismissed.

[SATISH KUMAR MITTAL]
JUDGE

[MAHAVIR S. CHAUHAN]
JUDGE

August 17, 2015
adhikari