

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

**LPA No.1719 of 2013
Date of Order: 23.09.2015**

Harjinder Singh

..Appellant

Versus

Government of India and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MS. JUSTICE REKHA MITTAL.**

**Present: Mr. G.S.Ghuman, Advocate,
for the appellant.**

**Mr. Nitin Kumar, Advocate,
for the respondents.**

RAJIVE BHALLA, J (Oral)

The appellant, challenges order dated 31.07.2013, dismissing his writ petition and as a consequence, affirming his removal from service.

The appellant, was appointed as a constable in the Railways Protection Force, Ambala, but while posted on election duty in Tam Taran, District Amritsar, left his duty, ran away from Amritsar Railway Station, taking with him his service carbine and ammunition including a spare magazine, even, though, the appellant was detailed to proceed to Muradabad/ Rudarpur, Uttranchal, for further election duty. The authority lodged a Daily Diary Report (DDR) for disobeying lawful orders and remaining absent from duty without information to

the authority. . After the absence of the appellant was discovered, a search party was sent to his residence at Batala. The appellant was found at home with the weapon and ammunition. The appellant was brought back and charge-sheeted, under Rule 3(ii)(iii) of the Railways Servants (Conduct) Rules, 1963 and finally after considering his defence, was awarded a punishment of removal from service with immediate effect by order dated 20.08.2007. The appeal and the revision filed by the appellant were dismissed on 26.02.2008 and 30.05.2008, respectively. The appellant, thereafter, filed Civil Writ Petition No.22571 of 2011, after a delay of more than 3½ years. The appellant's contentions were duly considered, but the writ petition was dismissed by holding that the enquiry does not suffer from any procedural defect. The story set up by the appellant that he was under medical treatment, was found to be factually incorrect. The appellant has, thereafter, filed the present appeal. The following order was passed on 22.01.2015:-

“Respondents are not present though served.

Learned counsel appearing on behalf of the appellant states that the appellant accepts the findings against him throughout and will not challenge them. The appellant seeks to make an application to the respondents for leniency by reducing the quantum of punishment. He further states that in the event of quantum of punishment being reduced, the appellant will not seek any back wages or any other benefit between the period his

services were terminated and reinstatement, if granted.

The respondents shall respond to the same on the next occasion.

List again on 23.04.2015.

A copy of this order shall be forwarded by the appellant to the respondents forthwith.”

In response to the said order, counsel for the respondents states, on instructions, they may have had reconsidered the punishment but as the appellant's service record, namely, nineteen punishments, apart from the present punishment, over a span of 8 years 3 months and 19 days of service dissuades them from reconsidering the matter.

Counsel for the appellant, on the other hand, states that, though, it is true that the appellant was re-miss in the discharge of his duties but as dismissal of the appellant would eventually effect his family, which consists of two minor daughters, a compassionate view of the matter may be taken and the respondents may be directed to reinstate the appellant, without back wages.

We have heard counsel for the parties, considered the departmental proceedings, the order of removal from service, the order dismissing the writ petition, the contentions raised by the respondents and even if we were to take a compassionate view of the matter, cannot ignore the fact that the appellant belongs to a disciplined force, where apart from performing his duties, a member is required to maintain cast-iron discipline. The fact that the

appellant was punished 19 times in his career of 8 years 3 months and 19 days, does not persuade us, despite the fact that the appellant has two minor daughters, to take a compassionate view of the matter and order the reinstatement of the appellant with or without back wages.

Consequently, finding no error in the impugned order, the departmental proceedings, or the order of removal, the appeal is dismissed.

(RAJIVE BHALLA)
JUDGE

September 23, 2015
nt

(REKHA MITTAL)
JUDGE