

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

LPA No.1603 of 2015 (O&M)

Date of decision: November 04, 2015

Karnail Singh

... Appellant

Vs.

State of Haryana and others

... Respondents

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. Whether to be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

Present: Shri Subhash Kumar, Advocate, for the appellant.

Hemant Gupta, J. (ORAL)

The present letters patent appeal under Clause X of the Letters Patent is directed against an order passed by a learned Single Bench of this Court on 24.04.2015, whereby the writ petition filed by the appellant challenging the punishment of dismissal from service, remained unsuccessful.

The appellant abstained from duty for 94 days, 18 hours and 20 minutes - from 30.6.2005 to 3.10.2005; for 12 days, 21 hours 10 minutes - from 10.10.2005 to 23.10.2005; for 14 days, 19 hours and 55 minutes - from 4.11.2005 to 14.11.2005; for 16 days, 6 hours and 25 minutes - from 18.12.2005 to 3.1.2006 and for 33 days, 12 hours and from 6.1.2006 to 10.2.2006, i.e., total 172 days and 6 hours. On account of absence from duty, the appellant was charged sheeted for the said misconduct. The inquiry officer submitted the report on 26.4.2006. The inquiry report was supplied to the appellant. After considering the inquiry report and the fact that the appellant did not avail opportunity to cross-examine the seven

witnesses produced by the department, nor appeared after the copy of the inquiry report was supplied to him, the Superintendent of Police passed the order of dismissal on 9.3.2007. An appeal against the order of dismissal was dismissed by the Inspector General of Police, Panchkula on 4.6.2009 and further revision by the Director General of Police, Haryana on 23.12.2009. Subsequently, the writ petition filed by the appellant stands dismissed vide the order impugned in the present appeal.

Learned counsel for the appellant contended that the appellant has lost near relations during the period of absence, i.e., father, mother and brother, therefore, he was mentally disturbed and there was, thus, sufficient reason for him not to report for duty. He also contends that the appellant has rendered almost 18 years of service and, therefore, instead of dismissal, the order of compulsory retirement would have met the ends of justice.

We have heard learned counsel for the appellant and find no merit in the appeal.

The appellant did not appear before the inquiry officer. He did not cross examine any of the witnesses of the department nor replied to the show cause notice communicating the report of the inquiry officer. Therefore, the Punishing Authority was justifying in law in imposing punishment after considering the inquiry report. Such order has not been interfered with in appeal and revision as well as by the learned Single Judge in the writ petition.

The argument of learned counsel for the appellant is that due to the circumstances beyond his control i.e. tragedies in the family, he could not perform his duties and also did not appear during the course of inquiry, cannot be said to be justified. The appellant has remained absent for a total period of more than 172 days in five different spells. Not only he remained absent for a long period, he did not appear in the inquiry proceedings nor

submitted reply to the inquiry report. In the absence of any explanation of his absence given during the course of inquiry proceedings, the explanation in the writ proceedings cannot be accepted or even considered. The explanation has to come at the relevant first stage. The appellate and the revisional authorities have taken a view that the order of punishment imposed is fair and reasonable. Such order has not been interfered with in the writ petition.

In view of the above, we do not find any illegality or irregularity in the order passed by the learned Single Judge, which may warrant any interference in the present appeal. Consequently, the present appeal is dismissed.

[HEMANT GUPTA]
JUDGE

[RAJ RAHUL GARG]
JUDGE

November 04, 2015.
Kadyan/Vimal