

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

RSA No.4135 of 2012 (O&M)

Date of decision : 30.10.2015

Ram Lubhaya

... Appellant

versus

Punjab State and others

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. T.S. Chauhan, Advocate, for the appellant.

Rajesh Bindal, J.

The plaintiff is before this Court against concurrent findings of fact recorded by both the Courts below whereby the suit filed by him challenging the order dated 6.7.2004 dismissing him from service, was dismissed.

The suit was filed on 29.8.2007. The appellant-plaintiff claimed that he was recruited as Constable in the Punjab Police. He had been inflicted the punishment of dismissal from service on account of unauthorised absence from duty for 59 days vide order dated 6.7.2004. The punishment inflicted was impugned in the suit filed by him on the ground that proper procedure was not followed and the earlier punishments inflicted on the appellant for unauthorised absence from duty were not part of the charge-sheet. However, I do not find any merit in the submissions made. Both the Courts below concurrently found that the enquiry was property conducted. The earlier punishments inflicted on account of unauthorised absence from duty were not required to be part of the charge-sheet as those were independent disciplinary actions. However, at the time of imposing punishment, those could be considered and were, in fact, considered. The fact that the appellant remained absent from duty on all the occasions, which were noticed in the judgment, is not in dispute. From the material on record, it was found that the appellant, who was member of a disciplined

force, was habitual absentee. The punishments inflicted on the appellant earlier have been mentioned in the impugned judgment of the learned Lower Appellate Court. The same are extracted below:-

<u>Order</u>	<u>Days for absence</u>	<u>Punishment</u>
No. 435-39/ST dated 4.2.1998	96 days	one year service forfeited
No. 639-42/ST dated 1.3.1998	42 days from 10.9.1996 to 21.10.1996	one year service forfeited
No. 1217-20/ST dated 17.9.1998	40 days 18 hours 10 minutes	two years service forfeited
No. 347-50/ST dated 19.3.1999	107 days 21 hours 15 minutes	three years service forfeited
dated 13.5.1998	8 days	censured
No.2434-39/ST dated 6.7.2004	59 days	dismissal from service

Considering the aforesaid facts where despite repeated absence of appellant from duty, as a result of which his total seven years service was already forfeited, still he did not correct himself, in my opinion, no illegality has been committed by the learned Courts below in upholding the order of dismissal of the appellant from service.

It may further noticed that the impugned order is dated 6.7.2004. The suit was filed on 29.8.2007 more than three years thereafter.

No substantial question of law arises. The appeal is accordingly dismissed.

30.10.2015
vs

(Rajesh Bindal)
Judge