

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

DATE OF DECISION: NOVEMBER 20, 2015

Narinder Singh

.....Appellant

VERSUS

State of Punjab and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

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

Present: Mr. R. S. Bajaj, Advocate for
Mr. K. S. Dadwal, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgement and decree passed by the Civil Judge (Junior Division), Jalandhar, dated 01.03.2011, by which the suit for declaration preferred by the appellant-plaintiff to the effect that the order dated 25.07.2006 passed by the Deputy Inspector General of Police, Computers and Telecommunications, Punjab, Chandigarh, whereby the appeal of the appellant-plaintiff was rejected and the order passed by the Superintendent of Police, Telecommunications, Punjab, Chandigarh, dated 02.12.2005, dismissing him from service for absence from duty being illegal, void, unconstitutional and, thus, not sustainable, stands dismissed and the appeal preferred against the said judgement and decree stands dismissed by the Additional District Judge, Jalandhar, on 22.04.2013.

It is the contention of learned counsel for the appellant that the Courts below have failed to appreciate that initially the appellant-plaintiff was dismissed from service by invoking the provisions of Article 311(2) (b) of the Constitution of India. The said dismissal order was challenged by him by filing a civil suit, which was decreed. The appeal preferred against the said order was dismissed. Therefore, the appellant-plaintiff was reinstated in service with all consequential benefits except the back wages. He, thus, contends that absence period from duty was from 16.05.1995 to 11.01.1996, which was the formal order, which has been passed by the respondent, reinstating him in service. He, thus, contends that the findings recorded by the Enquiry Officer and framing charge of absence from duty from 16.05.1995 to 01.02.2004 cannot sustain and deserves to be set-aside. He contends that the consequential order of dismissal from service and dismissal of his appeal also deserve to be set-aside and the appeal may be allowed.

The contentions, as raised by learned counsel for the appellant, cannot be accepted as neither during enquiry proceedings nor before the Appellate Authority such a ground has been raised. In any case, the appellant-plaintiff would have challenged the order of charge, if the same was not in consonance with the period of his absence. He having accepted the same and participated in the enquiry proceedings without objecting thereto, the findings recorded by the Enquiry Officer cannot be said to be without any basis, especially when he has not actually worked with the respondent Department for the said period. In any case, the findings as recorded by the Enquiry Officer with regard to his absence from duty cannot be faulted with, may be the period of absence could be from 16.05.1995 to

11.01.1996. Even if that aspect of the findings is found to be correct, still the absence of the appellant-plaintiff from duty for more than seven months cannot be said to be such a period which could be ignored. As a matter of fact, it is by now a settled proposition of law that absence from duty, that too in a Disciplined Force like police, for even a single day would amount to misconduct, which would call for dismissal of the employee from service. Here absence of the appellant-plaintiff is for more than seven months and, therefore, the order of dismissal is in accordance with law.

Both the Courts below have returned concurrent findings after properly appreciating the pleadings and evidence brought on record by the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

November 20, 2015
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE