

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6578 OF 2014

Deepak Dnyandev Jadhav

.. Petitioner

V/s

Union of India & Ors.

.. Respondents

Mr. Sameer Dalal with Ms. Sangeeta Yadav i/b Ms. Suchitra Kamble for the petitioner.

Ms. V.H. Kantharia with Mr. D.P. Singh and Mr. A.R. Varma for the respondents.

**CORAM: DR. MANJULA CHELLUR, C.J. &
M.S. SONAK, J.**

DATE : 25th OCTOBER 2016

P.C.:

Learned counsel for the petitioner seeks permission to amend the prayers on the ground that there is an order of dismissal. On verification of material and upon hearing the respondents' counsel, we notice that the main grievance of the department against the writ petitioner is unauthorised absence from duty.

2. The petitioner was initially appointed as a cook and then promoted as a constable in the Border Security Force. The fact remains that he sought leave from 2nd November 2011 to 20th November 2011, but did not report for duty and only on 4th March 2012 he reported for duty after overstaying for 102 days.

Subsequently he remained absent without seeking leave or permission from 19th March 2012 onwards. Ultimately on 26th June 2012, the order of dismissal was passed against the petitioner wherein it was indicated that within 90 days from the date of dismissal he can make an application for reinstatement. Apparently no such application came to be made by the petitioner within 90 days. However, when such application came to be made, the same was considered on merits and having regard to the past record of the writ petitioner regarding his unauthorised absence, the respondent authorities rejected his application confirming the order of dismissal.

3. At this stage, we fail to understand which order the petitioner intends to challenge by amending the writ petition. The latest order is nothing but reaffirming the dismissal order dated 26th June 2012. As a matter of fact, we notice from the prayer in the writ petition that the petitioner has already challenged the latest order dated 6th February 2014. The very nature of duties attached to the petitioner as a security constable requires his presence and attention at the field more than his personal affairs. If his personal affairs compel him to stay away from duties of Border Security Force as a constable, definitely the authorities, which has to maintain the discipline in the department, have every reason to take harsh decision. Unauthorised absence of an employee of BSF is very serious. From 19th March 2012, after reporting for duty for 15 days after overstaying for 102 days, the petitioner abandoned his duties.

Therefore, we are of the opinion that even one day unauthorised absence of a constable of Border Security Force must be regarded as serious. Therefore, we are of the opinion that there is no need to intervene in the mater. Accordingly the petition is dismissed.

(M.S. SONAK, J.)

CHIEF JUSTICE