

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

CWP No.18764 of 1995

Date of decision: 10.03.2016

Ex. Const. Suresh Chander

...Petitioner

versus

The State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the petitioner.

Mr. Ravi Partap Singh, AAG, Haryana.

RITU BAHRI, J.

The petitioner is seeking quashing of the orders dated 01.03.1994, 22.10.1994 & 26.08.1995 (Annexures P-4, P-6 and P-8) whereby on account of exparte enquiry, his services have since been terminated.

Suresh Chander-petitioner joined the Haryana Police on 01.08.1985 and was posted in the Government Railway Police (GRP) after passing the basic recruitment course. On 09.10.1993, he was put on duty on the 'Sadbhavana Rail Yatra', when he was posted at Government Railway Police, Ambala Cantt. However, he remained absent from duty on that day. In this regard, an enquiry was ordered on 03.01.1994 and Mr. Balbir Singh, Inspector was appointed as Enquiry Officer. As per petitioner, he was ill and was advised rest from 09.10.1993 to 22.10.1993. He had sent information to the Superintendent of Police (Railways) on 11.10.1993, 04.11.1993, 15.11.1993, 06.12.1993, 10.01.1994 and 31.01.1994.

The case of the petitioner is that in the enquiry proceedings, the petitioner was proceeded exparte and no notice of the charge was ever served

upon him. Ultimately, the respondents have passed the impugned order dated 01.03.1994 thereby terminating the services of the petitioner without referring to Rule 16.2 of the Punjab Police Rules, as applicable to the State of Haryana. The authorities were to consider the length of service, which the petitioner had rendered, before dismissing him from service.

Upon notice, written statement on behalf of respondent Nos. 1 to 3 has been filed, wherein details of punishments awarded to the petitioner during his entire service, have been given as under:-

1. Censure in 1988.
2. Stoppage of one future annual increment with permanent effect in the year 1989.
3. Stoppage of one future annual increment with temporary effect in the year 1991.
4. Stoppage of one future annual increment with permanent effect in the year 1991.
5. Stoppage of one future annual increment with permanent effect in the year 1991.
6. Censure and leave without pay for his period of absence from duty in the year 1993.
7. Stoppage of two future increments with permanent effect for his absence from duty in the year 1993.

It has been further stated that before appointment of Enquiry Officer, notices have been given to the petitioners on 10.11.1993 and 03.12.1993 at his home address through special messenger. However, after receiving the same, the petitioner did not report for duty and wilfully absented himself continuously. Thereafter, a notice dated 05.01.1994 was

sent by the Enquiry Officer at the home address of petitioner through Constable Ajit Singh, vide which, he was directed to join the enquiry proceedings within two days. As per report of Constable Ajit Singh, this notice was received by Balraj, brother of the petitioner. When the petitioner did not join the enquiry proceedings, an application was made to the Superintendent of Police (Railways), Haryana, Ambala Cantt. for obtaining the orders for conducting the enquiry proceedings exparte. This permission was granted to the Enquiry Officer on 17.01.1994. Thereafter, the Enquiry officer, sent a summary of allegations, list of witnesses and copy of documents relied upon in the departmental enquiry vide notice dated 17.01.1994 at the home address of the petitioner through SHO, GRPS, Sonapat. As per records, these documents were received by the petitioner personally on 24.01.1994. Despite that he did not join the enquiry proceedings. During the enquiry, statements of four witnesses were recorded and examined. After completing all the legal requirements, the Enquiry Officer submitted his report by holding the petitioner guilty of the charge of absence from duty. Thereafter, the Superintendent of Police issued a show cause notice proposing penalty of dismissal of petitioner from service. The petitioner received the show cause notice 10.02.1994. At that time, he stated that he was ill and would produce the list of defence witnesses by 15.02.1994. This request of the petitioner, being belated, was not considered. Thereafter, the petitioner again sent a telegram to Inspector Balbir Singh, Welfare/GRP office of Superintendent of Police, Railways, Haryana, Ambala, seeking extension of 10 days' time. The said telegram was received in the officer on 21.02.1994.

Since the petitioner had been wilfully absenting from duty w.e.f. 09.10.1993, the competent authority, after going through the enquiry report,

passed the order of dismissal dated 01.03.1994 (Annexure P-4). Against this order, the petitioner filed an appeal (Annexure P-5) before the Deputy Inspector General of Police, which was dismissed vide order dated 22.10.1994 (Annexure P-6). Thereafter, he filed 2nd appeal/revision (Annexure P-7) before the Director General of Police, which was dismissed on 26.08.1995 (Annexure P-8).

The initial date of appointment of petitioner was 01.08.1985 and he has been dismissed from service on 01.03.1994. Therefore, he had rendered less than 10 years of service. Hence, he was not eligible for minimum pension as per Rules. In this background, Rule 16.2 the Punjab Police Rule was not required to be considered while imposing the punishment of dismissal from service. As per written statement, there were seven bad entries in his service record, which are sufficient to show that he would not be a responsible employee of the Police Department. His absence from duty on 09.10.1993 and subsequently, non appearance in the enquiry proceedings was sufficient to justify the order of dismissal, which has been passed by order (Annexure P-4). Moreover, after initiating the enquiry, the Enquiry Officer had followed all the procedure and took permission for proceeding exparte against the petitioner. Thereafter, he sent all the documents to the petitioner along with list of witnesses before submitting the enquiry report.

In view of the above, no case for interference is made out.

Dismissed.

10.03.2016
ajp

(RITU BAHRI)
JUDGE