

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

Date of decision: 21.09.2016

CWP No.7366 of 1997 (O&M)

Suraj Mal

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: None for the petitioner.

Ms. Shruti Jain Goel, AAG, Haryana.

Mr. Arjun Sharma, Advocate, for respondent No.5.

RAJIV NARAIN RAINA, J. (ORAL)

This petition has been preferred by Suraj Mal against his dismissal order dated 21.06.1994. The dismissal was confirmed in appeal and thereafter in revision vide orders dated 18.10.1994 and 12.08.1996 respectively. The prayer is that the orders be set aside.

At the time of dismissal, the petitioner was working as Constable in Haryana Police. He was dismissed by reason of remaining absent from duty without leave after the charge was proven in the regular inquiry instituted into the misconduct. The period of absence forthcoming from the orders and the written statement filed by the Police Department is from 18.06.1992 to 30.11.1992 for which he was awarded the punishment of dismissal from police service. His past service was also taken into consideration and right to pension, if any. In the past i.e. in the years 1980, 1983 & 1994, Suraj Mal was awarded punishments including major punishment of withholding five future annual increments with permanent

effect for absence w.e.f. 31.01.1992 to 23.04.1992. It was his second absence which brought him down with the extreme punishment of dismissal from service. The Police Department relies on the decision rendered in State of Punjab Vs. Balkar Singh, (1976) 7 SCC 381 to defend the dismissal order arguing that it is sound in law and in fact. Besides, executive discretion has been properly exercised in the case.

However, today during the course of arguments, the Court is informed that the petitioner is dead. So is the learned counsel representing the petitioner namely Mr. I.S.Balhara, Advocate.

In these circumstances, the petition is dismissed, but with liberty to the legal representatives of the petitioner to apply to this Court for restoration of the case, in case they so desire, for hearing them in case there is merit in their application in the event it is filed for recall or review of this order.

A copy of this order be sent to the legal representatives of late Ex. Constable Suraj Mal No.799/HSR son of Shri Shiv Charan at the address given in the memo of parties i.e. VPO Mandauthi, Tehsil Bahadurgarh, District Rohtak. A copy of the order be also sent to the Superintendent of Police, Rohtak to ask the Station House Officer of the area within which falls the aforesaid village and to seek the legal representatives and serve a copy of this order on them. Office of the learned Advocate General, Haryana also to send one copy of this order to the Superintendent of Police, Rohtak for information and service of the order on the family members of the deceased Suraj Mal so that they have knowledge of its passing.

21.09.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No