

CWP-12302-2013

[1]

In the High Court of Punjab and Haryana at Chandigarh.

CWP-12302-2013

Date of Decision:23.02.2016

Kabul Singh alias Kabal Singh

...Petitioner

Versus

The Principal Secretary and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. M.K. Bhatnagar, Advocate,
for the petitioner.

Mr. V.K. Kaushal, Advocate,
for the respondents.

SABINA, J.

Petitioner has filed this petition under Article 226 of the Constitution of India challenging the orders dated 25.06.2012 and 22.11.2012.

Case of the petitioner, in brief, was that he was appointed as a Peon with the respondents on compassionate grounds w.e.f. 17.06.2002. Father of the petitioner died in October 2012 and thereafter mother of the petitioner suffered from various ailments. In September 2010, petitioner availed sanctioned leave w.e.f. 28.09.2010 to 08.10.2010. Since, the health of the mother of the petitioner deteriorated, he could

CWP-12302-2013

[2]

not report for duty on 08.10.2010. Petitioner reported for duty in the Transit Camp at Jammu on 14.10.2010 and submitted an application dated 17.10.2010 that he was not willing to serve at Kashmir and wanted to resign from service of his own accord on account of ill-health of his mother. However, no action was taken on the said request of the petitioner. Rather petitioner was served with notices dated 24.11.2010, 10.12.2010 and 29.01.2011 asking him to report for duty. Petitioner was also served with show cause notices dated 10.05.2011, 26.09.2011 and 31.03.2012 regarding his unauthorized leave. Petitioner submitted his reply to the notices explaining his position that his mother was unwell and he had small children to look after. Vide order dated 25.06.2012, petitioner was ordered to be dismissed from service. Respondent No.3 vide order dated 22.11.2012 dismissed the representation filed by the petitioner. Hence, the present petition by the petitioner.

Learned counsel for the petitioner has submitted that petitioner had submitted his resignation (Annexure P-4) and had requested that he be relieved from duty w.e.f. 30.11.2010. Respondents instead of accepting the resignation submitted by the petitioner had passed the impugned order dated 25.06.2012 (Annexure P-1), whereby he was dismissed from service. The said order had been illegally passed without

CWP-12302-2013

[3]

considering the domestic circumstances of the petitioner.

Learned counsel for the respondents has submitted that, in fact, petitioner had absented from duty w.e.f 17.10.2010 and had reported for duty at Frontier, Headquarters, Srinagar on 13.11.2010. The authority had taken lenient view and allowed the petitioner to join duty. Petitioner had submitted an application on 17.10.2010 praying that he wanted to quit the job on account of ill-health of his mother. However, the said request of the petitioner could not be accepted as he had only rendered 8 years and 4 months of service. Petitioner could resign from service after depositing cost of training charges as he had rendered less than 10 years of service.

In the present case, petitioner had joined as a Peon with the respondents on 17.06.2002. Petitioner absented from duty w.e.f 17.10.2010 and reported for duty on 13.11.2010. Petitioner was permitted to join his duty. Thereafter, petitioner again absented from duty w.e.f. 21.11.2010 to 25.06.2012. Notices were admittedly issued to the petitioner asking him to join his duty but he had failed to do so. Consequently, order dated 25.06.2012 (Annexure P-1) was passed, whereby petitioner was ordered to be dismissed from service. Although, petitioner had requested to the respondents that he may be permitted to quit the job vide

CWP-12302-2013

[4]

application dated 17.10.2010 but he could not be permitted to resign from the job as he had not served with the respondents for the required period. Petitioner had served with the respondents for 8 years and 4 months and could leave the job only after rendering 10 years of service or he was required to deposit the cost of training charges.

Vide Annexure P-2, representation filed by the petitioner was rejected.

Since, in the present case, petitioner had remained absent from duty for 583 days and had also overstayed leave on earlier occasions i.e. w.e.f. 07.11.2005 to 10.11.2005, 14.11.2005 to 22.11.2005 and 26.11.2010 to 03.12.2010, the respondents had rightly passed the impugned orders.

Keeping in view the facts and circumstances of the present case, no ground for interference while exercising powers under Article 226 of the Constitution of India is made out.

Dismissed.

February 23, 2016
kapil

(SABINA)
JUDGE