

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 1049 of 2016

Date of Decision : January 19, 2016

Satish Kumar Petitioner
vs.
State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Jagdish Manchanda, Advocate
for the petitioner.

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DEEPAK SIBAL, J. :

Through the present petition, the petitioner, who was serving the respondents as a Patwari, has challenged the punishment of dismissal inflicted upon him through order dated 27.03.2014 (Annexure P-10) passed by the Director, Consolidation Department, Haryana, as also the order dated 17.07.2015 (Annexure P-12) dismissing the petitioner's appeal against the aforesaid punishment order. The petitioner further seeks reinstatement with all consequential benefits.

A few facts may be noticed.

The petitioner was charge-sheeted for being a habitual absentee. The periods of absence, as given in the charge-sheet, were as under :-

<i>Sr. No.</i>	<i>Periods</i>
<i>01.</i>	<i>From 03.11.2005 to 07.12.2005</i>
<i>02.</i>	<i>From 10.11.2009 to 15.11.2009</i>
<i>03.</i>	<i>From 06.05.2008 to 16.05.2008</i>
<i>04.</i>	<i>From 21.07.2006 to 16.10.2006</i>
<i>05.</i>	<i>From 07.05.2007 to 03.07.2007</i>
<i>06.</i>	<i>From 01.08.2007 to 06.08.2007</i>
<i>07.</i>	<i>From 02.02.2008 to 15.10.2008</i>
<i>08.</i>	<i>From 17.11.2008 to 21.12.2008</i>
<i>09.</i>	<i>From 29.07.2009 to 04.08.2009</i>
<i>10.</i>	<i>From 01.03.2010 to 31.03.2010</i>
<i>11.</i>	<i>From 08.03.2011 to 04.01.2012</i>

His response to the charge-sheet, having being found to be unsatisfactory, he was subjected to a departmental inquiry, in which he was found guilty. It may be noted that before the Inquiry Officer, the petitioner admitted that he had remained absent without giving any leave application. He further admitted that he had never sought prior approval before going on leave. He also admitted his fault on having remained absent unauthorizedly. The relevant portion of his statement before the Inquiry Officer is reproduced as under :-

*“Stated that the allegations
have been leveled upon me that I remained
absent on my post from 21.7.06 to 16.10.06,*

7.5.07 to 3.7.07, 1.8.07 to 6.8.07, 2.2.08 to 15.10.08, 17.11.2008 to 21.12.2008, 29.7.2009 to 4.8.2009 and 1.3.2010 to 31.3.2010 without giving any leave application.

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xx

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It is correct that I never went on leave after prior approval. I was not mentally fit. I admit my fault. It is also correct that I remained absent even after 4.1.12. [Emphasis supplied]

The inquiry found the petitioner guilty of unauthorized absence. A copy of the inquiry report was supplied to him along with proposed punishment, to which the petitioner responded, after consideration of which, through order dated 27.03.2014 (Annexure P-10), the petitioner was dismissed from service. His appeal against the order of punishment was dismissed by the Appellate Authority vide order dated 17.07.2015 (Annexure P-12).

Learned counsel for the petitioner sought to justify the absence of the petitioner on the ground that the petitioner's daughter was unwell and that for the period from 08.03.2011 to 04.01.2012, the petitioner had been absent since he was embroiled in a false criminal case. In the alternative,

the counsel for the petitioner submitted that the punishment of dismissal meted out to the petitioner was disproportionate to the charges levelled and proved against him.

I do not agree with the learned counsel on either of the submission made. A perusal of the record shows that the issue with regard to his daughter's illness was never raised by the petitioner while replying to the charge-sheet, before the Inquiry Officer or even before the punishing Authority. It apparently is an after-thought as it was taken up for the first time in the appeal filed by the petitioner against the punishment order. The periods of the petitioner's unauthorized absence, which he sought to justify on the ground of his daughter's illness, pertain to the years 2008, 2009 and 2010. As noticed above, not only that this defence was not raised by him while replying to the charge-sheet, in the inquiry proceedings and before the punishing Authority, this plea was also never raised by him in the years 2008, 2009 or 2010 to justify his unauthorized absence. The medical records of the daughter of the petitioner have also been withheld from this Court.

So far as the plea with regard to the petitioner having been embroiled in a criminal case in the year 2011-12 is concerned, this issue was also not raised by him at any point of time prior to the filing of the appeal against the punishment order.

Irrespective of the above, the admission on the part of the

petitioner during the inquiry proceedings, which remains unchallenged, belies the case of the petitioner. It was admitted by him that he never sought prior approval before proceeding on leave. He further admitted his fault as also the fact that even after January 2012, he had remained unauthorizedly absent. A habitual absentee like the petitioner has no place in Government service and he has rightly been dismissed from the same.

Finding no merit in the present petition, the same is ordered to be dismissed with no order as to costs.

(DEEPAK SIBAL)
JUDGE

January 19, 2016
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