

In the High Court of Punjab and Haryana at Chandigarh

**Civil Writ Petition No. 5170 of 2016
Date of Decision: 17.3.2016.**

Rishidev Singh Chahal

.....Petitioner

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. B.S.Bhalla, Advocate
for the petitioner.

SABINA, J.

Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of certiorari for quashing the order dated 16.9.2015 (Annexure P-11).

Case of the petitioner, in brief, is that he joined as Sub Inspector with the respondents on 6.11.1999. Petitioner was promoted as Inspector on 22.5.2006. Petitioner had applied for leave and his leave was sanctioned from 21.12.2008 to 30.1.2009. During the said period, petitioner suffered from breathing problem and also suffered from pain in his backbone. Due to this reason, petitioner remained under treatment of Miri Piri Institute and could not join his duty after expiry of his leave period. Petitioner sent telegrams and registered letter to the respondents for extension of his leave period. Petitioner had also sent the medical prescription slips along with the application for extension of the leave period. Petitioner had submitted resignation letter dated 15.6.2009 (Annexure P-3) on the ground that his physical health did not allow

him to perform his duties properly. However, the said request of the petitioner was not accepted by the respondents. Rather, the petitioner had been ordered to be dismissed from service. Hence, the present petition by the petitioner.

Learned counsel for the petitioner has submitted that in fact, petitioner was aggrieved by the part of the impugned order dated 25.7.2014 (Annexure P-9) whereby it had been ordered that the dismissal from service of the petitioner would be a disqualification for future employment under the Government.

In the present case, petitioner was sanctioned 40 days earned leave with effect from 21.12.2008 to 30.1.2009. However, petitioner failed to resume his duties after the expiry of the leave period. Charge sheet dated 3.6.2011 was issued to the petitioner. Since the petitioner was not available at home, the same was handed over to his father. Petitioner failed to join the enquiry proceedings and, consequently, *ex parte* departmental proceedings were held against him. The enquiry officer submitted report that the charge of absence was duly established against the petitioner. Consequently, it was ordered that the petitioner be dismissed from service. It was further ordered that dismissal from service of the petitioner was a disqualification for future employment under Government. Before passing of the impugned order Annexure P-9, the representation submitted by the petitioner was duly considered. Appeal filed by the petitioner against the order Annexure P-9 was dismissed vide order dated 16.9.2015 (Annexure P-11). Petitioner was a member of disciplinary force and had remained absent from duty with effect from 31.1.2009 onwards. Petitioner had also failed to join the enquiry proceedings. In these

circumstances, keeping in view the gravity of misconduct, the punishing authority rightly ordered that the petitioner be dismissed from service. Since the petitioner had been ordered to be dismissed from service on the ground of misconduct i.e. absence from duty, it was rightly further ordered that dismissal from service of the petitioner shall ordinarily be a disqualification for his future employment under the Government. The impugned order in the facts and circumstances of the present case calls for no interference by this Court while exercising jurisdiction under Article 226 of the Constitution of India.

Dismissed.

**(SABINA)
JUDGE**

March 17, 2016
Gurpreet