

Sr. No.218

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

LPA-626-2016(O&M)

Date of Decision: December 20, 2016

Naresh Kumar

.....Appellant

VS.

The Presiding Officer, Labour Court and others

....Respondents

**CORAM HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE DR. SHEKHER DHAWAN**

Present:- Mr. J.S.Cooner, Advocate for the appellant.
Mr.Nitin Thatai, Advocate for the respondents no.2 and 3.

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MAHESH GROVER, J

CM-5090-LPA-2016

Allowed,as prayed for.

Main Case

This appeal is directed against the judgment of the learned
Single Judge dated 14.08.2015.

The appellant / workman was issued a show cause notice for remaining absent from duty from 08.11.2009 till 01.12.2009. Inquiry proceedings were held and his services were terminated by taking into account his erratic and errant conduct over period of time. His absence from duty was held to be willful and even though the appellant attributed this to be on account of an accident, there was no medical evidence on record to substantiate such a plea.

Learned counsel for the appellant contends that his absence
from duty was not intentional and an accident prevented him from

performing his duty.

This plea is controverted by the respondents who referred to the Award of the Labour Court and the erratic and errant conduct of the appellant where he has repeatedly remained absent for inordinately long period. It has also been stated that the workman is given to alcoholism and when he comes to the place of work, he shirks work on account of his intoxicated state.

We have heard learned counsel for the parties and perused the material on record.

It would be appropriate to refer to the discussion of the Labour Court, who noticed the repeated absence of the workman from duty of the appellant particularly 63 days in the year 2008 and 72 days in 2009. There is also mention of repeated warnings and number of show cause notices issued to him for dereliction of duty.

The employer is very well within its rights to take into account the cumulative effect of conduct of a workman which if establishes habitual default would justifiable warrant termination of his service, as has also happened in the present case. We also notice that the employer in this case is an Army school which would also set high standards of discipline for itself. Evidently, the workman did not live up to the expectations and rather has displayed and demonstrated repeated erratic streak which cannot be wished away and condoned particularly in an institution like a school. We also notice that the appeal has been filed after inordinate delay of 183 days which is largely remained unexplained.

No ground for interference has been made out.

Dismissed.

(MAHESH GROVER)
JUDGE

December 20, 2016
mamta

(SHEKHER DHAWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No