

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

**CWP No.3845 of 2001
Date of Decision:08.05.2017**

Satbir Singh

... Petitioner

Vs.

Director General of Police, Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Bhupinder Singh Bairagi, Advocate for the petitioner.
Mr. R.K. Doon, A.A.G. Haryana.

P.B. BAJANTHRI J. (Oral)

In the instant petition, the petitioner has questioned the validity of the orders passed in a disciplinary proceedings by which the petitioner has been dismissed from service on 28.7.1999. The petitioner has exhausted the remedy of appeal as well revision in which the petitioner has suffered orders. The petitioner while working as a constable in the Haryana Police was sent on deputation to Police Training College, Madhuban. He was discharging the duties of the post of Instructor in the Police Training College, Madhuban. On 22.1.1998, Deputy Inspector General/Director, Police Training College, Madhuban repatriated the petitioner's services directing the petitioner to report in the office of Superintendent of Police, Panipat with immediate effect. The petitioner is stated to have been suffering from eye pain. Thus, he has obtained first aid treatment on 22.1.1998 and on the advise of the Doctor, he has to take rest. Consequently, the petitioner submitted leave application for a period of ten days. Thereafter, from time to time, the petitioner extended the leave upto 3.3.1998. The petitioner submitted application for regulating the leave period. Thereafter, official respondents issued show cause notice to the petitioner for not reporting to duty and for disobeying the order of

repatriation dated 22.1.1998. After receipt of the notice, the petitioner joined the services on 3.4.1998. In this backdrop, the official respondents proceeded to initiate disciplinary proceedings against the petitioner for remaining unauthorized absence from duty for 71 days so also for disobeying the order of repatriation. The disciplinary proceedings were concluded in imposing the penalty of dismissal from service. Thereafter, the petitioner has exhausted the remedy of appeal as well revision in which the petitioner has suffered orders. Hence, the present petition.

Learned counsel for the petitioner submitted that order of repatriation dated 22.1.1998 has not been communicated to the petitioner even to this day which is evident from the reply filed by the respondents in which official respondents stated that due to the absence of the petitioner, the official respondents have not communicated the same. In the inquiry, the inquiry officer has taken all the materials into consideration and found that the petitioner's unauthorized absence read with petitioner's ailment is not sufficient to go on leave for 71 days. Thus, the inquiry officer's finding has been taken into consideration by the disciplinary authority before passing the order of dismissal from service which is not in accordance with law having regard to the fact that repatriation order has not been communicated to the petitioner so also leave application has not been considered. Therefore, order of dismissal and consequential orders passed by the appellate authority, revisional authority are liable to be set aside.

Per contra, learned counsel for the respondents vehemently submitted that petitioner in order to avoid repatriation resorted for medical leave and other tactics for the reasons that the petitioner had challenged the order of repatriation in civil suit proceedings before the Civil Judge (Jr.

Division), Karnal by filing a suit on 17.2.1998 and the same was withdrawn on 7.3.1998 reserving liberty to file a writ petition before this Court. Having regard to the conduct of the petitioner read with civil suit proceedings, it is evident that the petitioner had the knowledge of repatriation order. Therefore, the contention of the petitioner that the order of repatriation has not been communicated even to this day is not tenable. That apart the petitioner has not made out a case so as to interfere with the orders passed by the disciplinary authority, appellate authority and revisional authority.

Heard learned counsel for the parties.

The petitioner's all along contention is that order of repatriation dated 22.1.1998 has not been communicated to him. He had applied for medical leave from time to time from 22.1.1998 to 3.3.1998 and leave has not been sanctioned or rejected. Contention of the petitioner that order of repatriation has not been communicated to him cannot be accepted for the reasons that the petitioner himself filed a civil suit before the Civil Judge (Jr. Division) Karnal on 17.2.1998 and the same was withdrawn on 7.3.1998 stating that he intends to file writ petition. The petitioner has failed to file writ petition questioning the order of repatriation. That apart having regard to the dates and events read with filing of civil suit are evident that the petitioner was avoiding repatriation from the Police Training College, Madhuban. Moreover in this petition petitioner has suppressed of filing of civil suit and its withdrawal. Having regard to the conduct of the petitioner and the fact that he had knowledge of repatriation order, the petitioner cannot contend that it has not been communicated to him. The petitioner was required to report before the Superintendent of Police, Panipat after 7.3.1998 the date on which civil suit was withdrawn or he should have

obtained an interim order from this Court by filing a writ petition against the repatriation order. In the absence of exhausting the aforesaid remedy, the petitioner cannot contend that the order of repatriation has not been communicated. Thus, the petitioner has not made out a case so as to interfere with the orders passed by the disciplinary authority, appellate authority and revisional authority.

Accordingly, petition stands dismissed.

08.05.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**