

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

CWP-21746-2013 (O&M)
Date of Decision: 31.10.2017

Rajinder Singh

.....Petitioner

vs.

The State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr.T.C.Dhanwal, Advocate,
for the petitioner.
Mr. R.K.Doon, AAG, Haryana.

AMOL RATTAN SINGH, J. (Oral)

By this petition the petitioner seeks quashing of the impugned orders, Annexures P-14, P-15 and P-18.

By the first order, dated 26.04.2012, upon remand of the matter to him by the appellate authority, the Director, Industrial Training Department, Haryana, after hearing the petitioner, 'quashed' the earlier orders dated 16.12.2011, by which the petitioner was removed from service, keeping in view his earlier record, in which he was found to be good/very good/brilliant.

Even while noticing that the case which led to the petitioner's removal from service was on account of personal enmity with whom the person with whom he is stated to have had a fight, it was noticed that the petitioner had used filthy language and therefore, a stoppage of two annual increments with cumulative effect was

ordered by the Director, i.e. the punishing authority.

That order having been upheld by the appellate authority, i.e. respondent No.1, vide the order Annexure P-18 dated 01.07.2013, agreeing with the punishment awarded by the punishing authority, I see absolutely no reason to interfere in those orders.

As regards the order Annexure P-15, the period that the petitioner remained out of service after his removal/dismissal, w.e.f. 08.09.2011 to 01.05.2012, has been treated to be leave of the kind due.

In the opinion of this Court the said order could not have been passed without the petitioner's consent, in view of the fact that the proviso to sub-rule 5 of Rule 7.3 of the Punjab Civil Service Rule, (Vol.I) (as applicable to the State of Haryana), stipulates that the period of absence may be converted into leave of the kind due at the instance of the Government employee if he so desires. The rule otherwise stipulates that the period shall not be treated as duty period, except at the discretion of the authority.

Thus, as per Rule 7.3 (5) of the Punjab Civil Service Rules (Vol.I), the period of absence is not to be treated as duty period except at the discretion of the punishing authority, but if the employee so desires, he can get it converted to leave as due to him.

Consequently, if the petitioner does not wish to have the period between 08.09.2011 to 01.05.2012 treated to be leave of the kind due to him, he shall be at liberty to represent to the

punishing authority, i.e. the Director, Industrial Training Department, Haryana, who in his discretion thereafter, if such representation is moved to him, would either treat it as period not on duty in terms of Rule 7.3(5) of the Punjab Civil Service Rules, (Vol.I), or, at his discretion, to be duty period.

With the aforesaid liberty given to the petitioner, on that limited issue, this petition is dismissed.

No order as to costs.

October 31, 2017

dharamvir

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO