

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

**Civil Writ Petition No.17875 of 2017
Decided on : 11.08.2017**

Constable Sanjay Kumar

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Bhupinder Malik, Advocate for the petitioner.

G.S. Sandhawalia, J. (Oral)

The grouse of the petitioner in the present writ petition under Article 226 of the Constitution of India is that the period from 05.04.2007 to 07.11.2016 was not considered as a duty period for all intents and purposes. It is his case that he was appointed as a Constable in the year 1992 and on account of absence from service from 15.12.2005 to 05.04.2007, he was dismissed. His appeals and revisions were rejected vide order dated 09.04.2008 and 29.08.2009. Thereafter, he filed mercy petition with the Government.

The Additional Chief Secretary had remanded the matter to the respondent No.2 to pass a fresh speaking order on the appeal submitted by the petitioner. The said respondent vide order dated 21.10.2016 (Annexure P-1) has revoked the dismissal order and reduced the punishment of dismissal from service to stoppage of ten future increments with permanent effect. However, a condition was imposed that he will not be paid anything for the period he remained absent and out of service on the principle of 'no work no pay'.

Resultantly, the present writ petition has been filed that the said period be treated as a duty period without giving any financial benefits.

A perusal of the impugned order dated 21.10.2016 (Annexure P-1) would go on to show that the bar as such is regarding the financial aspect on the principle of 'no work no pay', but the said respondent has not touched the issue whether the period of absence would as such be considered for the purposes of seniority and increments etc.

Notice of motion.

Ms. Shruti Jain Goyal, AAG, Haryana accepts notice on behalf of the respondents. Copies of the paper-book have been supplied to her.

Without commenting upon the merits of the case and the eligibility of the petitioner, this Court is of the opinion that the petitioner firstly should approach the said respondent for the redressal of his grievances by filing an appropriate representation and bringing to the notice of the said respondent the disadvantage which he has to suffer, in case, the said period is not counted.

It is his case that he has joined as a constable in the year 1992 and a punishment has already been imposed upon him on account of his absence which is quite severe.

Accordingly, the present writ petition is disposed of with a direction to respondent No.2 that in case, any such representation is filed

by the petitioner within a period of two weeks from today, the same be decided within a period of two months, thereafter.

Needless to say that, in case, any adverse order is to be passed, the same should contain reasons and be conveyed to the petitioner.

AUGUST 11, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No