

CWP-24933-2014

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-24933-2014

Date of Decision: May 23, 2017

Baldev Singh

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. G.S. Bal, Senior Advocate with
Mr. A.D.S. Bal, Advocate
for the petitioner.

Mr. Harkesh Manuja, Additional Advocate General, Punjab.

AUGUSTINE GEORGE MASIH, J. (Oral):

Petitioner has approached this Court challenging the order dated 27.10.2014 (Annexure P-9) passed by the Appellate Authority rejecting the statutory appeal of the petitioner and the order dated 20.07.2012 (Annexure P-6), whereby, punishment of stoppage of one annual increment without cumulative effect has been imposed upon him for remaining absent without leave on 2nd, 5th and 7th September, 2011.

It is the contention of the learned senior counsel for the petitioner that the petitioner has a very good service record. The petitioner had never absented himself earlier or was irregular in attending to his duties in school. He is working as a Mathematics Master and with reference to the affidavit, which has been filed by the respondents dated 27.09.2016, learned counsel submits that he has a very good record as a Teacher as pass

percentage of his students who appeared in the exams of Punjab School Education Board is very good. It so happened that the petitioner was unwell and therefore, could not attend his duty on 5th and 7th September, 2011. On 2nd of September, 2011, petitioner had come to school and thereafter left because of ill-health. On 5th and 7th September, 2011, he had through a telephonic message intimated about his ill-health. The date he returned to school, he had submitted leave alongwith medical certificates indicating his illness. The two medical certificates are appended with the writ petition as Annexures P-4 and P-5, according to which, petitioner was suffering from infection and fever. The respondents, without taking into consideration the above facts, proceeded to impose punishment of stoppage of one annual increment without cumulative effect vide order dated 20.07.2012 (Annexure P-6). The appellate Authority vide the impugned order dated 27.10.2014 (Annexure P-9) dismissed the appeal of the petitioner. Counsel, thus, contends that the absence of the petitioner from duty is neither intentional nor deliberate but it so happened because of his ill-health which intimation had also been given by phone. Thus, there was no absence from duty. He, therefore, prays that the order of stoppage of increment without cumulative effect as also the order passed by the Appellate Authority deserve to be set aside.

Counsel for the respondents, on the other hand, submits that although, there is an telephonic intimation, which has been recorded on 5th and 7th September, 2011, in the telephone register maintained in the school but no application had been submitted by the petitioner. It is, during the

inspection of the school on 07.09.2011 that the petitioner was found absent from duty as there was no application for leave and therefore, the action was initiated against him. Counsel, thus, submits that the orders, which have been passed by the Competent Authorities being in accordance with the statutory rules passed upon the facts, do not call for any interference of this Court.

I have considered the submissions made by the counsel for the parties and with their assistance have gone through the records of the case.

The fact that the petitioner came to the school on 2nd September, 2011 and thereafter left because of ill-health, has not been disputed. The factum that the petitioner had intimated telephonically about his ill-health on 5th and 7th September, 2011, has also not been disputed. The only ground which has been taken for imposing the punishment upon the petitioner is that he had not submitted a proper application because of which, he has been marked absent in school by the inspection team. The medical certificates regarding his illness which have been submitted by the petitioner have not been disputed and therefore, keeping in view the totality of the facts and circumstances of the case, it is apparent that the petitioner had not intentionally and deliberately absented from duty rather, he was unwell and therefore, could not attend his duty. Above all, he had taken due caution by intimating the authorities telephonically about his ill-health as is apparent from the telephone register maintained in the school, where any telephonic message received is duly recorded and cross-signed by the Head of the School.

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In view of the above, the order dated 27.10.2014 (Annexure P-9) passed by the Appellate Authority and the order dated 20.07.2012 (Annexure P-6) passed by the Punishing Authority, cannot sustain in the peculiar facts and circumstances of the case and are thus, set aside.

The writ petition is allowed. The consequential benefits, if any, be released to the petitioner within a period of three months from the receipt of certified copy of this order.

(AUGUSTINE GEORGE MASIH)
JUDGE

May 23, 2017
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No