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

CWP No.9652 of 2017

Date of Decision :08.05.2017

Giriraj Sharan Bharadwaj

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR JUSTICE AJAY TEWARI

Present : Ms. Priyanka Sud, Advocate
for the petitioner.

AJAY TEWARI, J. (Oral)

By this petition the petitioner has challenged the disciplinary proceedings against him. The petitioner was charge-sheeted for the following offences:-

“1. a. That you committed a fraud in his own Privilege Leave Account and credited 239 days' P. Leave in his leave account instead of 59 an excess of 180 days' P-Leave which he had already availed and thereby committed a fault punishable under section 17(c) of K.U. Calendar Vol.I.

b. That you committed fraud in his own Medical Leave Account and credited 91 days' commuted leave in his

medical leave account, which he had already availed and thereby committed a fault punishable under section 17(c) of K.U. Calendar Vol.I.

c. That you committed fraud in Casual Leave Account registers on account of which many staff members including Dr. N. K. Garg, Dr. Subhash Sharma, Dr. M.L. Verma, Dr. Anita Verma, Dr. S.C. Sharma, Sh. V.K. Aggarwal, Smt. Pratibha Singla, Dr. Shashi Mangla, Dr. Dharam Chand, Dr. Renu Rani Sharma have taken excess casual leave during period from the year 2001 to 2004 when the respondent was working as leave clerk and thereby committed a fault punishable under Section 17(c) of K.U. Calendar Vol.I.

2. That you at the time of handing over the charge did not hand over the following leave account registers to Sh. Sanjay Jain (his successor) on 23.03.2007 and thereby committed a fault punishable under Section 21 (1)(i) of the Haryana Affiliated Collage (Security of Service) Rules, 2006 and under Section 17(c) of K.U. Calendar Vol.I.

a. Teaching Staff 1991 to 1994

Earned Leave Register 1998 to 2000 -do-

1987 to 2001 Medical Leave Register

b. Non-teaching 2001 to 2004 Medical Leave

Register

1987 to 1995 Medical Leave

Register

1987 to 1991 P. Leave Register

1995 to 2000 P. Leave Register

3. That you was found doing anti-college activities on

21.05.2012 by distributing/getting pasted pamphlets in the college premises, thereby committed a fault punishable under Section 18(a), 21(2) (ii) of the Haryana Affiliated College (Security of Service) Rules, 2006 and 17(a) of K.U. Calendar Vol.I.

4. That you was found in intoxicated position on 28.12.2011 in college premises when he was on duty and thereby committed a fault punishable under Section 22(e) of the Haryana Affiliated College (Security of Service) Rules, 2006.
5. That you was found to have not completed his assigned work, like admission register, security register etc. and thereby committed a fault punishable under Section 17(b) of K.U. Calendar, Vol.I.
6. That you as per your habits availed leaves without prior permission and information thereby committed a fault punishable under Section 21(4) of the Haryana Affiliated College (Security of Service) Rules, 2006.”

The Management Committee of the College appointed a retired Addl. District and Sessions Judge who held inquiry over a period of 2 years after giving full opportunity to the petitioner and found him guilty of charges 1(a), 3, 4, 5 & 6. Pursuant to that the disciplinary authority awarded him the punishment of dismissal. The appeal before the respondent No.2-Director General, Higher Education met the same fate. The said dismissal order was challenged by the petitioner in revision and the revisional authority held as follows:-

“It is an undisputed fact that the relations between the delinquent official and the Principal of the College were

acrimonious and embittered. It is a settled administrative and legal precept that the punishment of removal/dismissal from service should be resorted to in the rarest of rare case as it has serious implications on the career/life of the employee concerned. In the present case it appears that the Principal/Management of the college and the delinquent official have a history of allegations and counter allegations against each other. The delinquent official has pointed out that the Deputy Commissioner, Palwal had recommended the initiation of a vigilance inquiry against the Principal for obtaining a forged degree which facilitated his appointment to the post of Principal in an incorrect manner.

It is an admitted fact that the delinquent official in the past, prior to the initiation of the present disciplinary proceedings has raised objection in writing about the conduct of the Principal in several matters and also filed several RTIs against him. It appears prima facie that the conduct of the Principal/Management in dismissing him from service appears to be tainted by prejudice and a preconceived mindset. However, it was also incumbent upon the delinquent official to observe and maintain discipline, decorum and propriety in the discharge and propriety in the discharge of his duties.

In view of the above mentioned facts I am of the considered view that the facts of this case do no warrant his dismissal from service which would be excessive and harsh. However, I uphold the recovery of 180 days salary for the committed fraud in P. Leave account which he has already availed the order of the Director Higher Education/Management dismissing him from service is set aside and a punishment to stoppage of two annual increments with cumulative effect is imposed upon him.”

I find that the revisional authority has taken a fair and

circumstances of the case is just.

Consequently, the petition is dismissed.

Since the main case has been decided the pending civil miscellaneous application, if any, also stands disposed of.

May 08, 2017
ashish

(AJAY TEWARI)
JUDGE

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