

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

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**RSA No.2201 of 2012 (O&M)
Date of Decision : 21.09.2017**

Mohan Singh

..... Appellant

Versus

The State of Punjab and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Manu K.Bhandari, Advocate
for the appellant.

Mr. H.S.Sitta, Asstt. Advocate General, Punjab.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below dismissing the suit of the appellant.

The appellant was inducted as Special Police Officer on 10.07.1992 w.e.f. 01.06.1992. After about 1½ years he went absent without leave on 17.02.1994 and since he did not joined back he was discharged from service on 22.04.1994. After 8 years and 7 months he filed the instant suit in September, 2002. During the pendency of appeal, three years later he filed an appeal against the order of discharge to the appellate authority. At that very stage his suit had been rendered infructuous. Be that as it may. His appeal was rejected by the appellate authority but he did not even amend the suit to challenge that appellate order.

On 10.04.2013 the following order was passed :-

“CM Nos.6144-45-C of 2012

For the reasons mentioned in the applications, same are allowed and delay in filing and refiling of the present appeal is condoned.

CM Nos.6146-47-C of 2012

Applications are allowed as prayed for.

RSA No.2201 of 2012 (O&M)

Learned counsel for the appellant states that the case of the appellant is at par with that of SPO Gurmukh Gir and SPO Kuldeep Singh, who were taken back in service on 15.07.2001 and the appellant is also ready to forgo his back wages.

Notice of motion for 31.08.2013.”

Pursuant to that affidavit of Sukhdev Singh Virk, PPS, Superintendent of Police (Headquarters), Patiala was filed wherein it was brought out that as regards Gurmukh Gir he had remained absent for about 8 days over a period of three months, had rejoined back on 24.06.1994 and the order of discharge had been passed thereon. He also filed an appeal but in view of the explanation given by him his appeal was accepted.

As regards Kuldeep Singh the reason for his discharge was that an FIR under Section 304-A, 148, 149 IPC had been lodged against him but when he was acquitted he was reinstated.

Learned counsel for the appellant has fairly accepted that the case of Kuldeep Singh may not be relevant but has argued that the case of Gurmukh Gir is similar to the case of the appellant and consequently, he should also take a back into service.

Learned Assistant Advocate General points out that firstly Gurmukh Gir's suit had been rendered infructuous whereas in the present

case the appellant has not even challenged the appellate order into which the

discharge order had merged. Secondly the learned Assistant Advocate General points out that on merits Gurmukh Gir had been absent for 8 days over a period of three months and had joined back in duty whereas the appellant had remained absent straight for 2½ months and it was in his absence that the order of discharge had been passed.

In the totality of circumstances, I see no reason to interfere.

Appeal is dismissed. No costs.

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

(AJAY TEWARI)
JUDGE

21.09.2017
pooja sharma-I

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