

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

LPA No.2030 of 2016 (O&M)

Date of Decision:27.02.2017

Parveen Kumar Sharma

.....Appellant

Vs.

State of Haryana and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present:- Mr. Sandeep Goyal, Advocate for the appellant.
Mr. R.D. Sharma, DAG, Haryana.

SURYA KANT, J.(Oral)

This Letters Patent Appeal assails the order dated 8.8.2016 vide which learned Single Judge has dismissed the appellant's writ petition, challenging the order of termination of his services on the ground that he remained absent from duty. Suffice to mention that the appellant was engaged on a Class IV post of Pump Attendant in the year 2006. He unfortunately developed serious health issues/ ailment and had to remain off from duty. As he was treated absent from duty, the order of termination of his services was passed. Learned Single Judge has upheld that order. When this appeal came up for preliminary hearing on 17.10.2016, the following order was passed:-

“Relying upon the medical certificate (A-1 Colly.) as well as some official communications, to contend that the appellant had suffered paralytic attack and brain hemorrhage due to which he could not attend the duties as such reasons were beyond his control. He applied for medical leave but the same was declined being not admissible to a contractual appointee (A-3). On this premise it is contended that the appellant could

not be treated as absent from duty.”

Learned State Counsel submits that medical certificates and other documents now relied upon by the appellant were not produced before the learned Single Judge and as such the view taken in the order under appeal does not call for any interference.

Having given our thoughtful consideration to the submissions, we are of the view that the matter requires reconsideration by the learned Single Judge in the light of the documents/additional evidence now placed on record by the appellant. The crucial issue which requires determination is whether it was a case of wilful absence from duty or the appellant was compelled to remain off the duty for the reasons beyond his control?

The appeal is accordingly allowed. The order under appeal is set aside and the matter is remitted to the learned Single Judge for a fresh adjudication. The appellant is permitted to place on record the documents before the learned Single Judge which may be considered while deciding the matter. The respondents are directed to file their written statement before the learned Single Judge on the date fixed. The parties are directed to appear before the learned Single Judge on 5.4.2017.

**(SURYA KANT)
JUDGE**

**(SUDIP AHLUWALIA)
JUDGE**

27.02.2017

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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No