

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

LPA No.313 of 2017 (O&M)

Date of Decision: 01.03.2017

Bir Pal Singh

..... Appellant

Versus

State of Haryana and others

..... Respondents

**CORAM: HONBLE MR. JUSTICE SURYA KANT
HONBLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr. Neeraj Kumar, Advocate,
for the appellant.

SURYA KANT J. (ORAL)

1. This Letters Patent Appeal is filed against the order dated 13.10.2015 vide which learned Single Judge has dismissed the appellant's writ petition in which he challenged the order of his dismissal from service as well as the orders passed by the appellate and revisional authorities.

2. The appellant joined Haryana Police as a Constable on 01.10.1976. He was in due course of time promoted as Head Constable. He absented from duty on 27.12.2005 without submitting any leave application, what to talk of obtaining prior leave. He remained absent till 27.02.2008 i.e. more than two and a half years. The appellant was charge-sheeted; inquiry was held and the charge of willful absence from duty was proved. He was consequently dismissed from service vide order dated 23.06.2008. The appellant unsuccessfully filed the departmental appeal and revision petition. Those orders were challenged by him but his writ petition has been dismissed by learned Single Judge vide order under appeal.

3. The plea taken before learned Single Judge and reiterated

before us is that the disciplinary authority as well as the superior authorities have not kept in view the import and mandate of Rule 16.2 of the Punjab Police Rules, 1934, which says as follows:-

“PPR. 16.2 Dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect of continued misconduct proving incorrigibility and complete unfitness for police service. In making such an award regard shall be had to the length of service of the Offender and his claim to pension...”

4. We have considered the submission made by learned counsel for the appellant but do not find any merit therein. In para 2 of the written statement filed before learned Single Judge, the respondents have averred as follows:-

“That the contents of para No.2 of this CWP are wrong to the extent that no misconduct was ever reported on the part of the Petitioner. Following punishments were awarded to him at earlier instances in which four punishments are for absent from duty:- (i) Punishment of Censure for absence from B-1 Examination held on 18.01.89 in the Police Line Gurgaon. (ii) Punishment of Censure for misplacing of his identity card. (iii) Punishment of Censure vide order dated 12.09.98 for absence of 45 days. (iv) Punishment of stoppage of two future annual increments with temporary effect for absence from duty for 344 days vide order dated 17.03.2003. (v) Punishment of Censure for absence from duty for 108 days vide order dated 23.08.05.”

5. It may be seen from the past conduct of the appellant that he is a habitual absentee and an incorrigible Police Official. He was found absent from duties for 45 days for which he was censured on 12.09.1998. He again absented from duty for 344 days and a very lenient view was taken when punishment of stoppage of two increments with temporary effect was

imposed. He again absented from duty for 108 days and this time the authorities unfortunately dealt him very leniently.

6. Emboldened by the minor punishments awarded to him in the past, this time the appellant broke all the records and remained absent from duty for 780 days. Owing to his past conduct seen along with the misconduct proved in the subject inquiry proceedings, there were no mitigating circumstances to impose lesser punishment, merely on the basis of length of service in terms of Rule 16.2 *ibid*. The punishment awarded to the appellant cannot be said to be disproportionate to the nature and gravity of charges proved against him.

7. Dismissed.

(SURYA KANT)
JUDGE

01.03.2017

vishal shonkar

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: No