

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 4660 of 2018**

Lokendra Singh S/o Shri Atar Singh, Aged About 25 Years, Trade Constable 720 Chh. S. Bal 17th Batallian, Kabirdham, District-Kabirdham, Chhattisgarh

---- Petitioner

Versus

1. The State Govt. of C.G. through - the Secretary, Home Department, Ministry, Mahanadi Bhavan, P.S. Rakhi, New Raipur, Chhattisgarh
2. Deputy Inspector General of Police (Chhattisgarh Sashttra Bal Madhya Range.) Police Head Quarter, New Raipur, Chhattisgarh
3. Commandant, 17th Battalion, Kabirdham, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Vinod Kumar Sharma, Advocate
For Respondent/State	:	Shri Majid Ali, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****19/07/2018**

The challenge in the present writ petition is to the order passed by the appellate authority dated 25.04.2018 whereby the appellate authority while deciding the appeal of the petitioner against an order of dismissal has allowed the appeal and interfered with the punishment by converting the order of dismissal into a minor punishment of stoppage of one increment with non cumulative effect and the period of unauthorized absence of 102 days which was the misconduct against the petitioner, has been ordered to be treated as "no work no pay".

2. From the grounds raised by the petitioner and also perusal of the impugned order it is an admitted position that the petitioner was appointed

as a Constable (cook) with the respondent on 08.07.2013 and was posted at 17th Battalion, District Dantewada. The petitioner took leave for 9 days from 27.01.2017 to 05.02.2017 with a break up of 2 casual leaves and 7 STCL totaling 9 days. Thereafter the petitioner did not resume his duty and unauthorizedly remained absent from duty for a continuous period till 18.05.2017. Thus, the total period of absence was 102 days. The petitioner, for the said unauthorized absence of 102 days, was subjected to disciplinary proceedings and the disciplinary authority after an departmental enquiry vide its order dated 25.11.2017 issued an order of dismissal from service.

3. The petitioner herein preferred an appeal before the appellate authority under the provisions of the Police Regulation to the Additional Director General of Police. The ADGP taking a sympathetic view and considering the short service that the petitioner had rendered and also considering the fact that the petitioner has tried to justify his absence on the ground of his ill health passed the impugned order thereby modifying the order of dismissal from service converting the same into one of minor punishment of stoppage of one increment without cumulative effect. The Appellate Authority has further ordered for the intervening period to be treated as “no work no pay”. It is this order of the appellate authority which is under challenge.

4. The grounds raised under challenge is that the order of “no work no pay” may have a long lasting effect to the service career of the petitioner. Likewise, it is also said that it may have the effect of a major penalty. Further contention of the counsel for the petitioner is that the two orders of

“no work no pay” and stoppage of increment without cumulative effect amount to a double punishment for the same misconduct.

5. All these grounds which the petitioner has raised are not sustainable for the reason that firstly the impugned order is very specific that stoppage of increment is without cumulative effect. It is settled law that an order of stoppage of increment without cumulative effect is a minor punishment and it could not have an adverse bearing to the service career of the petitioner so far as seniority, pension and retiral dues are concerned. Likewise, the order of “no work no pay” also would not have an adverse effect to the service career of the petitioner except for the fact that the petitioner for the period of 102 days of unauthorized absence would not be entitled for any monetary benefits, but for all other practical purposes the said period would be treated as period spent on duty. Apart from this there does not appear to be any other ground raised by the petitioner for challenging the impugned order.

6. It is settled position of law that so far as challenge in a writ petition to an order of minor punishment is concerned, the scope of interference left for the High Court under Article 226 of the Constitution is very minimal. Unless there is a strong ground of malafide or perversity in the finding or the punishment is highly disproportionate to the allegations/charges leveled, this Court in exercise of its writ jurisdiction would find it difficult to interfere with the minor punishment.

7. For all the aforesaid reasons, this Court does not find any merit in the writ petition and the same deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
JUDGE