

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

CWP-14616-1995 (O&M)
Date of decision : 30.11.2018

ASI Sucha Singh

...Petitioner(s)

Versus

The State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. K.G. Chaudhary, Advocate,
for the petitioner(s).

Ms. Bhavna Gupta, DAG, Punjab.

JITENDRA CHAUHAN, J. (Oral)

By way of the instant writ petition filed under Articles 226/227 of the Constitution of India, the petitioner, *inter alia*, seeks issuance of a writ of Certiorari quashing of order dated 23.10.1992 (Annexure P-4) passed by respondent No.4, whereby, he was dismissed from service; order dated Nil (Annexure P-5) passed by respondent No.3, whereby, the appeal preferred by the petitioner was rejected; and order dated 09.06.1995 (Annexure P-6), passed by respondent No.2, vide which the revision-cum-mercy petition was declined; as also order dated 26.07.1990 (Annexure P-1), passed by respondent No.5, repatriating the petitioner to his parent department.

It is the case of the petitioner that he joined the Police Department in the year 1979 as Constable in the Punjab Armed Police. He was promoted as Head Constable on 01.04.1984. Thereafter, he was sent on deputation to the CID in the year 1986. He was promoted as ASI in the

CID on 07.02.1990. Thereafter, the petitioner was illegally and arbitrarily repatriated to his parent department as Head Constable without giving any benefit of five years' service rendered by him with the CID. The petitioner was required to report for duty in the parent department in the month of May, 1991, but he could not join as he remained confined to bed. He had also sent his medical certificates to the concerned authorities. However, instead of sanctioning the leave, the authorities suspended the petitioner and ordered a departmental inquiry against him on 22.07.1992 for his absence from duty.

It is contended that the order of dismissal passed against the petitioner is in violation of Rule 16.2 of the Punjab Police Rules which provides that the punishment of dismissal from service would be awarded in case of gravest misconduct. The petitioner could not join his duties on account of his illness, which fact is duly supported by the medical certificates submitted by him with the concerned authorities. It is further submitted that the impugned order of repatriation without giving him any benefit of the service rendered in the CID is also illegal. Cites ***Randhir Singh Vs. Dy. Inspector General of Police, Ambala Range, Ambala Cantt., 2004(4) RSJ 720; SI Surinder Singh Vs. State of Punjab and others, 2008(4) RSJ 613; and Dhan Singh Vs. State of Haryana and others, 2009(1) RSJ 62.***

On the other hand, learned State counsel submits that the petitioner did not send any medical certificate along with his application for sanctioning of leave to him. However, he had sent his medical certificates

for the period from 02.05.1991 to 31.07.1991, 01.08.1991 to 31.10.1991,

01.11.1991 to 31.01.1992 and 01.02.1992 to 31.05.1992, to the Enquiry Officer, which were received by the latter on 07.08.1992. It is further submitted that after repatriation from CID, the petitioner neither joined his duties in the PAP, which is evident from notices No.11308 dated 24.07.1992; No.11704 dated 30.07.1992; and No.12073 dated 06.08.1992, nor participated in the departmental proceedings and therefore, he was proceeded against ex parte.

Heard.

As per record, the petitioner was enlisted as a Constable in the PAP on 03.12.1979 and promoted as Head Constable on 01.04.1984. While he was on deputation to the CID, the petitioner was repatriated to his parent department i.e. 80th Battalion, PAP, Jalandhar Cantt. Vide order dated 30.04.1991. The petitioner was relieved by the CID authorities on 01.05.1991 with the direction to report to his parent department but he did not report there. A written notice was issued to him by the Commandant, 80th Battalion, on 27.05.1991 to resume his duties but he did not do so. Thereafter, the petitioner was placed under suspension w.e.f. 22.07.1992 and departmental inquiry was ordered to be conducted against him. It has also come on record that despite issuance of several notices, the petitioner neither joined his duties, nor joined the departmental proceedings which were ultimately concluded ex parte against him. Having been found guilty of the charge of wilful absence, a show-cause notice dated 29.10.1992 was issued to the petitioner. The show-cause notice along with copy of the findings of the inquiry officer was received by the petitioner under written

receipt dated 30.10.1992 but the petitioner chose not to submit any reply. He also did not appear for personal hearing although specifically asked to do so in the show-cause notice. Ultimately, the petitioner was dismissed from service vide impugned order Annexure P-4.

The petitioner has sought to explain his conduct as detailed hereinabove by submitting that he could not join the duties on account of his medical condition. However, the assertion of the petitioner is against the record. There is nothing on record to show that the petitioner submitted his application for grant of leave on medical grounds duly supported by medical certificates with the competent authority. Rather, he had sent the medical certificate to the Enquiry Officer for the first time on 07.08.1992 and that too without any application for grant of leave. The authorities have followed the due procedure prescribed under the service rules governing the petitioner. The petitioner did not bother to join the disciplinary proceedings and therefore, he had to be proceeded against ex parte.

The contention of the petitioner with regard to violation of Rule 16.2 of the Punjab Police Rules is also misconceived. The petitioner being a member of the disciplinary force, was expected to conduct himself in a disciplined manner. To the contrary, he proved himself to be an indisciplined, incorrigible and irresponsible policy officer whose conduct is clearly unbecoming of a policy officer. In ***Karnail Singh Vs. The State of Punjab, 1993(4) S.C.T 770 (P&H) (DB)***, this Court has held as under:-

“7. The police service is a disciplined service and it requires to maintain strict discipline. Laxity in this behalf erodes discipline in the service causing serious

effects in the maintenance of law and order. The interpretation placed by the learned Single Judge in Chanan Singh case on Rule 16.2(1) of the Rules has not been approved by the apex Court in Ram Singh case (supra). Resultantly, with respect to the learned Single Judge, we have no option but to overrule the same.

The petitioner habitually remained absent from duty. He did not reform himself. The record which has been alluded to by the appellate authority reveals that on previous occasions too the petitioner was awarded punishment on eight different occasions for remaining absent from duty. His absence from duty continuously for 5 months and 5 days was not an isolated Act. There had been repeated acts of remaining absent from duty for which he had been awarded punishment and the past record was taken into account while awarding punishment of dismissal from service. On the facts of the instant case, we do not find that the action of the respondents suffers from any infirmity.

For the reasons stated above, the writ petition fails and is dismissed, but with no order as to costs.”

The ratio of law laid down in the case law cited by learned counsel for the petitioner is distinguishable on facts of the present case. In Surinder Singh's case (supra) and Dhan Singh's case (supra), due consideration had been given to the long and meritorious services rendered by the petitioners therein, whereas, in Randhir Singh's case (supra), the petitioner did not misconduct himself on account of his absence during the period of suspension. However, in the instant case, the act and conduct of

the petitioner not to join in pursuance the order (Annexure P-1), his boycotting the departmental proceedings and the stand taken against the record with regard to his medical details amounts to gravest of the misconduct. Therefore, this Court is of the opinion that the punishment awarded is commensurate with the misconduct of the petitioner and there is no ground to interfere in the well reasoned impugned orders passed by the respondent-authorities.

Accordingly, there being no merit in the present case, the same is, hereby, dismissed.

30.11.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No