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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-11290-2016
Date of Decision : Sept. 18, 2018

Sarabjot Singh Petitioner.

Versus

Union of India and others. Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Rajeev Anand, Advocate
for the petitioner.

Mr. Vipul Aggarwal, Sr. Panel Counsel
for the respondents.

SHEKHER DHAWAN, J.

Petitioner, a dismissed employee, has filed the present writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing charge sheet dated 16.08.2014 (Annexure P/8), enquiry report dated 5.2.2015 (Annexure P/12); order dated 23.05.2015 (Annexure P/15) whereby, the petitioner was dismissed from service and order dated 24.08.2015 (Annexure P/17), vide which his appeal was dismissed by the Appellate Authority.

2. As per the petitioner, he was enrolled in the CRPF as Constable/General Duty in the year 2004. During the years 2009-2013, the petitioner had made various representations to the Coach of his Football team that he wanted to attend the National Institute of Sports as a

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Coach, but no action was taken. The petitioner joined the said course with National Institute of Sports after getting oral permission from the respondents. Charge sheet was issued to the petitioner on incorrect facts and thereafter dismissal order was passed without giving him due opportunity of hearing. The Appellate Authority did not consider the matter in its entirety and the said order is liable to be set-aside.

3. The respondents contested the writ petition by filing written statement on the ground that on the basis of charge sheet, departmental enquiry was conducted as the petitioner had deserted the Force w.e.f. 2.7.2013. Thereafter he was given an opportunity to report back on his duties vide letter dated 23.1.2014, but no response was received. In view of the continuous desertion of the petitioner from his duties, the department issued warrant of arrest against him and subsequently, he was declared deserter from the Force. Even after lapse of more than one year, the petitioner neither reported back nor submitted any intimation regarding his absence from duty. The department sent copy of charges framed against him at his home address to give him opportunity to defend his case. In the departmental enquiry, allegations against him were proved for his willful absence from duty for more than one year and two months. The competent authority examined all the issues and petitioner was found to be unfit to continue in service and as such, he was dismissed from service w.e.f. 23.05.2015. The petitioner was accorded full opportunity to defend himself. The respondents prayed that the present writ petition is without any merit and the same be dismissed.

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4. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that most of the facts are not disputed that the petitioner joined the disciplined Force (CRPF) in the year 2004 as Constable/General Duty. Thereafter he deserted the Force on 2.7.2013. Respondents issued notice to him to resume his duties and thereafter warrant of arrest were issued, but the petitioner did not join his place of duty nor submitted any report and as such, he was declared deserter from the Force. Inquiry was conducted and due notice was given to the petitioner, but he did not respond to that even and the competent authority passed the order of dismissal on this ground.

5. Similar matter was before Hon`ble Supreme Court in **Mithilesh Singh Vs. Union of India, 2003(3) SCC 309** and Hon`ble Apex Court observed as under :-

“unauthorized absence from duty by members of disciplined force is a serious misconduct and no fault can be attributed to the employer in respect of imposition of penalty of removal/dismissal from service.”

6. In view of the above, there is no merit in the present writ petition and the same stands dismissed

(SHEKHER DHAWAN)
JUDGE

September 18, 2018.

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Whether speaking/reasoned? :	Yes
Whether reportable? :	Yes