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

CWP-10419-2018

Date of decision-26.07.2018

Surinder Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. R.S.Bajaj, Advocate for the petitioner.

JITENDRA CHAUHAN, J. (Oral)

This writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of a writ in the nature of certiorari for quashing the enquiry report dated 03.06.2015 (Annexure P-2) and order dated 11.02.2016 (Annexure P-3) passed by respondent No.2 whereby the petitioner was dismissed from service.

Learned counsel contends that the impugned order of dismissal dated 11.02.2016 (Annexure P-3) of the petitioner from service is illegal, perverse and arbitrary. The petitioner served the respondents for more than ten years with full dedication.

The brief facts of the case are that the petitioner was appointed as Clerk on compassionate basis on 25.10.1991 with the Punjab Police. While being posted in the office of ADGP, Punjab, he remained absent from duty from 16.10.2014 to 30.03.2015 (166 Days) allegedly due to his ill health. The petitioner sent his medical leave through fax. Thereafter, a charge sheet dated 04.05.2015 was issued to the petitioner and enquiry

proceedings took place. On 13.05.2015, the petitioner further telephonically got his leave sanctioned from the department. Thereafter, the petitioner sent different applications through fax for extension of rest along with medical documents issued by Goodwill Hospital Jalandhar. During the departmental enquiry, the petitioner failed to produce any evidence and witness in connection with the charges levelled against him and ultimately vide order dated 03.06.2015 (Annexure P-2), enquiry officer held the petitioner guilty for remaining absent. Subsequently, vide order dated 11.02.2016 (Annexure P-3), the petitioner was dismissed from service.

I have heard learned counsel for the petitioner and have gone through the case file.

In “**State of Rajasthan and another Vs. Mohammed Ayub Naz**” 2006 (1) S.C.T.445, it has been held as under:-

“9. Absenteeism from office for prolong period of time without prior permission by the Government servants has become a principal cause of indiscipline which have greatly affected various Government Services. In order to mitigate the rampant absenteeism and wilful absence from service without intimation to the Government, the Government of Rajasthan inserted Rule 86(3) in the Rajasthan Service Rules which contemplated that if a Government servant remains wilfully absent for a period exceeding one month and if the charge of wilful absence from duty is proved against him, he may be removed from service. In the instant case, opportunity was given to the respondent to contest the disciplinary proceedings. He also attended the enquiry. After going through the records, the learned Single Judge held that the admitted

fact of absence was borne out from the record and that the respondent himself has admitted that he was absent for about 3 years. After holding so, the learned Single Judge committed a grave error that the respondent can be deemed to have retired after seeking of service of 20 years with all retiral benefits which may be available to him. In our opinion, the impugned order of removal from service is the only proper punishment to be awarded to the respondent herein who was wilfully absent for 3 years without intimation to the Government. The facts and circumstances and the admission made by the respondent would clearly go to show that Rule 86(3) of the Rajasthan Service Rules is proved against him and, therefore, he may be removed from service.”

In a judgment passed by a Division Bench of this Court in CWP-10190-1998, titled as “**Karnail Singh Vs. State of Punjab**” decided on 20.05.1993, it has been 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.

As per the enquiry report dated 03.06.2015 (Annexure P-2), the explained rest is for 10 days alone and there is no explanation with regard to remaining period of 166 days. It has been further noticed in enquiry report that the certificate furnished by the petitioner from the Goodwill Hospital was found to be bogus. As per the medical report with respect to health status and bed rest in support of his case were found to be bogus, therefore,

it emerges that the petitioner not only has indulged in indiscipline but has also created a bogus record which reflects the personality traits of the petitioner. Such a person is certainly unfit to be member of the disciplined force. There are no allegations of *mala fide* against the authorities.

The enquiry officer rightly concluded that non-production of any solid medical document/defence witness by the petitioner during the departmental enquiry proves that the medical slip issued by private Goodwill Hospital for getting approved medical rest was bogus.

There is nothing on record to show that the petitioner ever responded to the show cause notice. In the absence of any rebuttal by the petitioner to the allegations in the show cause notice dated 30.10.2015 and in view of Punjab Police Clerical Service (Grade 3) Rules, 1660, and the case laws cited above, the impugned order is perfectly legal and calls for no interference by this Court.

Dismissed.

(JITENDRA CHAUHAN)
JUDGE

26.07.2018

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No