

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

**LPA No.855 of 2018(O&M)
Date of decision: 13.09.2018**

Nahar Singh

... Appellant

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Samrat Malik, Advocate for the appellant.

ARUN PALLI, J. (Oral)

This is an intra-court appeal under Clause X of the Letters Patent against the order and judgment dated 22.02.2018, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant against the orders of his dismissal from service as also the appellate authority and the Government dismissing his appeal and mercy petition, had since been dismissed.

The petitioner-appellant joined the respondent-department as Constable on 14.06.1994. Concededly, he proceeded on 7 days leave and was required to report for duty on 14.09.2001. But as he failed to re-join, he was suspended w.e.f. 14.09.2001. Neither did he apply for extension of leave nor sent any intimation to the department to justify his absence. For he had absented from duty w.e.f. 14.09.2001 to 09.04.2003, a departmental inquiry

was initiated against him. Records show that although a copy of the charge-sheet was served upon him, but no reply was filed thereto. And eventually in the wake of the evidence on record the charges levelled against him were found to have been proved by the Inquiry Officer. Upon the inquiry report having been submitted to the competent authority, a show cause notice with proposed punishment of dismissal was sent to the petitioner. But again he did not opt to file any reply. Resultantly, he was dismissed from service on 15.10.2010. And, as indicated above, his appeal as also the mercy petition was dismissed by the appellate authority and the Government, respectively.

The plea set up by the appellant that as during the leave period he was suffering from schizophrenia and, therefore, was unable to join duty on 14.09.2001, was also repelled, for even in the said situation he could approach the competent authority for granting medical leave. Rather, records show that even during the pendency of the departmental inquiry when the appellant reported for duty at Police Station Sahnewal, Ludhiana, vide DDR No.8/02.04.2003 he was sent to Police Lines, Ludhiana, but again he chose to remain absent w.e.f. 10.04.2003 till his dismissal on 15.10.2010. And as is made out from the order dated 07.02.2014 passed by the Government dismissing his mercy petition, the appellant was even advised to appear before the Medical Board, Ludhiana and submit a report as regards his illness, but he did not opt to appear before the Board either. In fact, on a comprehensive analysis of the matter, the learned Single Judge recorded a finding that there was no credible medical evidence to support the assertion of the appellant that he indeed was seriously ill. Ex facie, the appellant remained absent from duty for a period of 9 years i.e. from 14.09.2001 till his dismissal on 15.10.2010. The grievance of the appellant that during the

period of suspension he was not granted any suspension allowance was also rejected, for in terms of Rule 16.21(2) of the Punjab Police Rules, 1934, the appellant could be entitled thereto had he attended the office during the period of his suspension which he never did. Thus, the appellant, who happened to be a member of a disciplined Force, was guilty of a highly serious and grave misconduct which warranted no interference with the orders passed by the punishing authority.

In conspectus of the above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge as also by the respondent-authorities. The appeal being devoid of merit is accordingly dismissed.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

13.09.2018
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO