

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

103

RSA-6395-2016 (O&M)
Date of decision:13.03.2018

Harvinder Singh

... Appellant

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Amandeep Singh Gill, Advocate for the appellant.

P.B. BAJANTHRI, J. (ORAL)

CM-16788-C-2016

This is an application for condonation of delay of 4 days in re-filing the appeal. Heard. In view of the reasons mentioned in the application and affidavit, same is allowed. Delay of 4 days in re-filing the appeal is condoned.

Main case

In the instant appeal, appellant has questioned the validity of the trial and appellate courts orders dated 20.02.2015 and 20.05.2016.

2. The grievance of the appellant is that he has been dismissed from service on 17.12.2008 on account of remaining unauthorized absent from 2002 to 2008. It was an ex-parte inquiry. Despite respondents issuing notice through newspaper on more than 2 occasions appellant has not availed the opportunity of attending the inquiry so also not cooperated in deciding the disciplinary proceedings. The courts below have proceeded to hold that sufficient opportunity had been given to the appellant and it was not availed by the appellant. Consequently, both the courts below have not interfered. Hence the present appeal.

3. Learned counsel for the appellant submitted that appellant had submitted leave application but neither it was accepted nor rejected. Further it was contended that principle of natural justice had not been adhered by the respondents while concluding the disciplinary proceedings. It was also contended that reply on the inquiring officer's report has not been considered by the disciplinary authority while passing penalty of dismissal.

4. Heard learned counsel for the appellant.

5. Having regard to the conduct of the appellant that he remained unauthorized absent from 2002 to 2008 further he has not attended the inquiry ,therefore contention of the appellant that principle of natural justice had not been adhered by the respondents cannot be accepted. That apart respondents have notified in the newspaper relating to notice. Appellant has not furnished his change of address to the disciplinary authority/employer. The contention of the appellant that disciplinary authority has not considered his reply on the inquiring officer's report is concerned it is to be noted that in the disciplinary authority's order which runs to 6 pages each and every instance has been taken note of. Even in the reply, appellant has not apprised the disciplinary authority as to why he remained unauthorized absent from 2002 to 2008 and not supported by any documents. Merely stating that he was suffering from some problem while performing duties, which resulted in mental disturbance does not suffice to condone the remaining absent from 31.08.2002 to 10.12.2008. Thus, no interference is called for in respect of orders passed by the courts below.

6. Accordingly, appeal stands dismissed.

13.03.2018

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No