

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

LPA No.932 of 2019(O&M)

Date of decision: 31.05.2019

Kulwinder 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: Ms. Dhivya Jerath, Advocate; and
Mr. Ruhani Chadha, Advocate, for the appellant.

KRISHNA MURARI, C.J. (Oral)

Delay of 178 days in re-filing and 26 days in filing the appeal is condoned for the reasons mentioned in Civil Misc. Nos.2227 & 2228-LPA-2019 and the same stand disposed of.

This intra-court appeal filed under Clause X of the Letters Patent is directed against the judgment and order dated 13.08.2018 passed by the learned Single Judge dismissing the writ petition filed by the appellant challenging the order passed dismissing him from service. Appellant-petitioner, who was a Constable, absented un-authorizedly from duty intermittently between 29.09.2009 to 06.12.2010. A disciplinary proceeding was initiated which resulted into an order of dismissal from service. The statutory appeal as well as the revision filed by him were dismissed.

After about two years of dismissal of the statutory revision, a mercy petition was filed by the appellant on the ground that he could not report for duty on account of illness and treatment of his mother. When no decision was taken, a writ petition was filed by him before this Court

bearing CWP No.7389 of 2016, which was disposed of vide order dated 23.05.2016 with a direction to the respondent-authorities to decide the mercy petition/revision within eight weeks. In compliance of the order passed by this Court, the same was considered and rejected vide order dated 12.08.2016 recording that the appellant had placed no documentary proof on record to substantiate the factum of illness of his mother for the period he was absent from duty.

After about two years of passing of order dated 12.08.2016, the writ petition was filed out of which this appeal arises. Learned Single Judge finding that the appellant-petitioner had failed to make out any case for exercising powers conferred by extraordinary jurisdiction, and being a member of disciplined force his absence from duty is a grave misconduct, held that the petitioner has rightly been awarded punishment of dismissal.

Apart from above, learned Single Judge has also made the inordinate delay in approaching the Court a basis for dismissal of the writ petition.

In the above facts and circumstances, we do not find any ground for interference in the impugned order passed by the learned Single Judge. The appeal fails and accordingly stands dismissed.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

31.05.2019

Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO