

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

Civil Writ Petition No.16521 of 2019

Date of decision: July 01, 2019

Karamjit Singh

...Petitioner

Versus

Central Administrative Tribunal, Chandigarh and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr.H.S.Ghuman, Advocate
for the petitioner.

HARINDER SINGH SIDHU, J.

Karamjit Singh – the petitioner has filed the present writ petition impugning the order of the Central Administrative Tribunal, Chandigarh Bench dated 05.09.2018, whereby, Original Application No.0060/00018/2017 filed by him has been dismissed. He has also challenged the order dated 12.3.2019, whereby, his Review Application has been dismissed.

2. The petitioner had filed the Original Application challenging the orders dated 28.5.2011 passed by the Disciplinary Authority removing him from service and the orders dated 08.11.2012 and 18.07.2016 whereby, his appeal and revision have been dismissed.

3. The petitioner was appointed as Motor Vehicle Mechanic on 24.7.1987 on probation for a period of 02 years. On successfully completing his probation period, he was promoted to skilled grade on 24.7.1989. He proceeded on leave from 23.10.2007 to 5.12.2007 but was

unable to return as he had to go abroad due to unforeseen and pressing family circumstances. Respondent No.5 Commander Works Engineer, Military Engineering Service, Ferozepur Cantt sent letter dated 27.10.2008 directing the petitioner to join duty or face disciplinary proceedings. This letter was received back with the remarks 'individual is living in foreign'. The respondents published notice in local newspaper on 14.12.2008/ 21.12.2008 calling upon the petitioner to join duty by 20.12.2008 failing which disciplinary action would be initiated against him. However, as the petitioner was out of the country he did not receive any communication from the respondents. Memorandum of charges against the petitioner for being absent from duty without leave since 16.12.2007 and for going abroad without prior permission was issued vide charge memo dated 19.6.2009. An ex parte enquiry was held against the petitioner. On the basis of the enquiry report, respondent No.4 – Chief Engineer, Jalandhar Zone, Military Engineering Service, Jalandhar Cantt passed order dated 28.5.2011 imposing major penalty of 'removal from service which will not be a disqualification for future employment with the Government'. As soon as the petitioner learnt of the disciplinary proceedings against him he came back to India in February, 2012. By then the proceedings had been finalised and penalty imposed. He then filed appeal and revision which were dismissed. He challenged the said orders before the Central Administrative Tribunal by filing an Original Application, which was also dismissed vide the impugned order.

4. The case of the respondents was that the petitioner had applied for leave from 23.10.2007 to 5.12.2007 on medical grounds. Instead of

submitting medical fitness certificate he went abroad without intimation/ permission of the superior authority. This was in violation of CCS (Conduct Rules) 1964. The petitioner did not rejoin the duty despite various letters issued by the Department. The matter was also reported to SSP Ludhiana vide letter dated 21.6.2008 to investigate and ascertain the whereabouts of the petitioner. He neither joined duty nor replied to the communications/ letters sent to him. Notice regarding holding enquiry was published in prominent newspapers directing the petitioner to attend the enquiry. Receiving no response, the Enquiry Officer finalised the enquiry ex parte. On the basis of the Enquiry Report, the disciplinary authority rightly passed the order imposing penalty of removal from service which will not be a disqualification for future employment with the Government.

5. The petitioner had argued before the Tribunal that he had to go abroad because of unforeseen pressing family circumstances. The petitioner has 20 years of unblemished service which has not been taken note of by the respondents who have chosen to impose harsh penalty of removal from service ignoring his previous services record.

6. The learned Tribunal dismissed the Original Application by referring to various decisions of Hon'ble the Supreme Court wherein, it has been held that scope of judicial review with the orders passed in departmental proceedings is very limited. The Courts would not interfere unless the punishment imposed is shockingly disproportionate.

7. The petitioner applied for leave from 23.10.2007 to 5.12.2007 on medical grounds. Instead of submitting medical/ fitness certificate he went abroad unauthorisedly without any information/ permission of

superior authority which was a violation of CCS (Conduct Rules) 1964. The petitioner did not rejoin the duty despite various letters issued by the Department. The matter was also reported to SSP Ludhiana vide letter dated 21.6.2008 to investigate and ascertain the whereabouts of the petitioner. He neither joined duty nor replied to the communications/ letters addressed to him. He returned to India in February, 2012 by then the enquiry had been finalised and the order dated 28.5.2011 of removal of service had been passed.

8. The argument on behalf of the petitioner regarding pressing of unforeseen circumstances has rightly not been accepted. He remained out of the country without information or prior permission for more than four years two months, returning only after about nine months after the order imposing of penalty of removal from service had been passed in May, 2011. During this long period, he never intimated his Department about his whereabouts or sent any communication or explained his pressing / unforeseen circumstances.

9. Hence, no ground to interfere.

10. Petition dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

July 01, 2019
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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No