

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-27677-2019 (O&M)
Date of Decision: 26.09.2019

Harjot Singh

--Petitioner

Versus

State of Punjab & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. N.K. Vadhera, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J (Oral)

Petitioner, who was serving on the post of Lower Division Clerk under the P.S.P.C.L, has filed the instant petition assailing the order dated 7.1.2013 (Annexure P-1), whereby major penalty of termination from service has been imposed upon him. Further challenge is to the order dated 19.8.2015 (Annexure P-2) rejecting the appeal preferred by the petitioner against the order of termination.

Counsel submits that the solitary charge against the petitioner was of having remained absent from duty. It is argued that it was on account of a matrimonial dispute that the petitioner had absented and such aspect has not been taken into account by the punishing authority while terminating his service. Yet another submission raised is that the petitioner had an unblemished service record of 10 years and which has also not been taken into account. It is contended that the punishment imposed is disproportionate to the charge leveled against the petitioner of absence from duty.

Counsel for the petitioner has been heard at length and pleadings on record have been perused.

Perusal of the impugned order of termination dated 7.1.2013 (Annexure P-1) would reveal that the petitioner while working as Lower Division Clerk in the Branch Division, Hoshiarpur had absented from duty w.e.f. 27.6.2011. In spite of a number of registered letters having been sent to him i.e. dated 21.7.2011, 4.8.2011, 7.9.2011 and subsequently followed by telegrams dated 9.9.2011, 14.9.2011 and 22.9.2011 calling upon him to join duty, petitioner chose not to do so. Against such backdrop petitioner was issued a charge sheet dated 8.11.2011 pressing a specific article of charge of remaining absent from duty and without sanction of leave. The charge sheet was served upon the petitioner on 14.2.2012. No reply to the same was filed. The Senior Executive Engineer/Track Area, Hoshiarpur was appointed as Inquiry Officer and Division Superintendent, Hoshiarpur was appointed as the Presenting Officer. The office of the Sub Division, Hoshiarpur sent a registered communication to the petitioner to appear before the Inquiry Officer and to set forth his defence. At this stage a communication is stated to have been received from the petitioner that on account of matrimonial issues and registration of a police case, he is pursuing a petition filed under Section 438 Cr.P.C seeking anticipatory bail. Ex-parte inquiry proceedings were conducted and findings were returned against the petitioner. The respondent-Corporation vide registered post sent the inquiry report to the petitioner and called upon him to appear within a period of 7 days in case he wishes to file any objections to the inquiry report. Thereafter, a public notice was also published in 'The Hindustan Times' and 'Punjabi Tribune' on 21.11.2012 and in spite thereof there was no response from the petitioner. The punishing authority on the basis of the charge that duly stood proved in the inquiry proceedings, took a decision of

imposition of a major penalty of termination from service.

Apparently, against the order of termination dated 27.1.2013 petitioner preferred an appeal after a delay of 2 years 2 months and 19 days and which stands dismissed vide order dated 19.8.2015 (Annexure P-2) on the ground of delay.

There is no dispute that the respondent-Corporation was obligated to follow the procedure prescribed under the Punjab Power Corporation (Punishment and Appeal Regulations) Act, 1971 prior to imposition of a major penalty. No submission has been advanced as regards the procedure prescribed under the Punishment and Appeal Rules having not been followed.

In so far as the charge of absence from duty is concerned, the same is also not refuted in the instant petition as also during the course of arguments. A justification, however, is sought to be put forth that it was the matrimonial dispute and registration of the FIR at the hands of the wife that kept the petitioner away from the call of duty. Even such submission is not well founded. Counsel has informed the Court that the FIR had been registered against the petitioner on 18.11.2011 and his date of arrest was 22.7.2014. To the contrary absence of the petitioner from duty commenced w.e.f. 27.6.2011.

It is by now well settled that the scope of judicial scrutiny in disciplinary matters and in orders of penalty imposed upon the delinquent would be confined to the decision making process and not the decision itself.

Prolonged absence from duty is a serious charge. The impugned action of termination from service has been taken after complying

with the principles of natural justice as also following the procedure prescribed under the Punishment and Appeal Rules. The penalty under the facts and circumstances cannot also be construed as shockingly disproportionate to the charge of prolonged absence from duty.

This Court does not find any patent infirmity in the decision taken by the competent authority in imposing upon the petitioner the major penalty of termination from service.

There is no merit in the instant petition and the same is, accordingly, dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

26.09.2019

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