

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

**CWP-12500-2018 (O&M)
Date of Decision:27.08.2019**

Rakesh Kumar

... Petitioner

Versus

Multani Mal Modi College

... Respondent

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

Present:- Mr. Rajnish K. Gupta, Advocate for the petitioner.

Mr. R.S. Dadwal, Advocate for
Mr. Aman Chaudhary, Advocate for the respondent.

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TEJINDER SINGH DHINDSA, J. (ORAL)

Petitioner who was serving on the post of Sweeper under the respondent/Multani Mal Modi College, Patiala has filed the instant writ petition assailing the order dated 30.10.2017 (Annexure P-13/T) and in terms of which he has been dismissed from service.

Counsel would submit that departmental proceedings had been initiated against the petitioner on the sole charge of having remained absent from duty from 05.05.2016 to 12.07.2016. It is such departmental proceedings that have culminated in the passing of the dismissal order. It is argued that the extreme penalty of dismissal is unduly harsh and is not commensurate to the charge that had been pressed against the petitioner. Further urged that instant writ petition may be treated as a mercy petition as the petitioner was facing proceedings under the Negotiable Instruments Act and on account of which he had remained absent from duty. It is submitted that the post of Sweeper that had been occupied by the petitioner is still

lying vacant and the petitioner would be ready and willing to even accept a fresh appointment on the post if it was to be offered.

Per contra, counsel for respondent/College would submit that the order of dismissal has been passed after following due procedure. It is submitted that no ground for interference is made out. He prays for dismissal of the petition.

Having heard counsel for the parties at length and having perused the pleadings on record, this Court is of the considered view that there is no merit in the instant writ petition and the same deserves to be dismissed.

It has gone uncontroverted that prior to passing of the impugned order, the procedure envisaged under the Punjab Civil Services (Punishment and Appeal) Rules, 1970 had been followed and a regular inquiry had been conducted against the petitioner and in which he had been duly associated. Counsel has not raised any submission as regards the inquiry proceedings being flawed. There has been compliance of the principles of natural justice prior to passing of the impugned order.

It is by now well settled that the scope of judicial review at the hands of this Court in exercise of its jurisdiction under Article 226 of the Constitution of India is not against the decision but in relation to the decision making process. No infirmity has been pointed out by the counsel with regard to the inquiry that had been conducted and which has finally led to the findings having been returned against the petitioner and which have weighed with the Punishing Authority while imposing a major penalty of dismissal from service.

Even the plea raised by counsel for the instant petition to be treated as a mercy petition and for a lesser penalty to be imposed is being noticed only to be rejected.

Placed on record and appended as Annexure R-2 along with the written statement is the charge sheet dated 24.11.2016 that was served upon the petitioner.

Perusal of the same would reveal that the petitioner is a habitual absentee and more than a dozen warning letters were issued to him prior in point of time. Such factual premise is not even disputed by counsel during the course of arguments.

In an overview of the matter, no intervention is called for.

Petition is dismissed.

27.08.2019

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |