

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-15985-2018

Date of decision: 30.01.2019

Jasmahender Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Dr. Naresh Kaushik, Advocate for the petitioner.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

Ritu Bahri, J. (Oral).

The petitioner is seeking writ of certiorari thereby setting aside order dated 03.05.2013 (Annexure P-6) whereby Deputy Commissioner of Police Ambala (Respondent No. 4) has awarded punishment to stoppage of two future annual increments with permanent effect alongwith treating absent period of 02 months 11 days and 15 minutes as leave without pay, order dated 15.07.2013 (Annexure P-8) passed by Commissioner of Police Ambala (Respondent No. 3) whereby in appeal the punishment has been reduced to one future annual increment with permanent effect and order dated 25.09.2013 (Annexure P-9) whereby revision petition of the petitioner has been rejected by the DGP (Respondent No. 2).

The petitioner was appointed as Constable in Haryana Police on 10.06.2007 and was posted as Constable No. 454/AMB in Computer Section, Office of Additional Director General of Police, Haryana Police, Ambala Range, Ambala. Vide order dated 01.09.2012, the petitioner was

deputed to attend PSO/Gunman Course at Commando Training Centre Nadasahib, Panchkula but he could not attend this course on account of medical problem and on account of this mis-conduct, he was issued show cause notice on 20.09.2012 by the Deputy Commissioner of Police Ambala-respondent No. 4 (Annexure P-1). The petitioner gave his reply to the show cause notice on 05.10.2012 (Annexure P-2) intimating his illness and treatment taken. He also gave an application for 10 days leave to the Deputy Commissioner of Police Ambala. Vide order dated 19.10.2012 (Annexure P-3), Deputy Commissioner of Police Ambala issued a warning to him to be careful in future. An enquiry was again initiated on the same cause of action as per the enquiry report dated 07.03.2013 (Annexure P-5). The charges levelled against the petitioner were found to be proved that the petitioner had remained absent for a period of 02 months 11 days and 15 minutes and did not attend PSO/Gunman Course at Commando Training Centre Nadasahib, Panchkula.

Learned counsel for the petitioner has argued that once he had been punished by the Deputy Commissioner of Police vide order dated 19.10.2012 (Annexure P-3), he could not be punished on the same cause of action by initiating a separate enquiry pursuant to the enquiry report dated 07.03.2013 (Annexure P-5) and in this backdrop, the punishments orders dated 03.05.2013 (Annexure P-6), 15.07.2013 (Annexure P-8) and 25.09.2013 (Annexure P-9) are liable to be set aside.

The petitioner had given explanation of his medical illness for absence alongwith medical documents which have not been taken into account by the Enquiry Officer. The petitioner remained under treatment in

Nagpal Nursing Home, Kurukshetra and Gaur Nursing Home, Kurukshetra upto 12.11.2012 and after recovery, he has joined the duty.

Learned counsel for the State has argued that initially vide punishment order dated 03.05.2013 (Annexure P-6), he was awarded punishment of stoppage of two increments with permanent effect and on appeal, this punishment has been reduced to stoppage of one annual increment with permanent effect vide order dated 15.07.2013 (Annexure P-8) and eventually his revision has been dismissed on 25.09.2013 (Annexure P-9) and all the orders do not require any interference.

After hearing learned counsel for the parties, this petition deserves to be dismissed. A perusal of the enquiry report dated 07.03.2013 (Annexure P-5) shows that vide order dated 28.08.2012, petitioner was deputed to attend "PSO Gunman Course" at Commando Training Centre, Near Nadhasahib, Panchkula after conducting the medical examination on 31.08.2012 from Civil Hospital, Ambala on 01.09.2012. However instead of reporting for this course, he remained absent for 02 months 11 days and 15 minutes and reported on duty on 12.11.2012. The petitioner after giving details of the charges, list of witnesses and documents declined from accepting the charges levelled against him and the Department led three prosecution witnesses and he did not cross-examine even one witness and no evidence was led before the Enquiry Officer with regard to his medical illness and the treatment taken from Nagpal Nursing Home, Kurukshetra and Gaur Nursing Home, Kurukshetra. The Enquiry officer has further observed that the chargesheet against the petitioner was prepared on 13.12.2012 and was approved by the Deputy Commissioner of Police

Ambala on 27.12.2012. The petitioner was given time to think and understand as per rules. On 31.12.2012, the petitioner came in person in the office and he declined to accept the charges levelled against him and he was given time to submit his written reply in defense. He gave his written reply on 26.02.2013. A perusal of the enquiry report dated 07.03.2013 (Annexure P-5) further shows that apart from filing his reply, he did not lead any evidence to prove his medical illness and another fact which requires to be highlighted in the present case is that the Deputy Commissioner of Police Ambala had issued warning to him on 19.10.2012 (Annexure P-3). Despite being this warning, the petitioner did not report back to duty immediately but reported back to duty on 12.11.2012 i.e. after a period of almost one month. His argument is that after issuing warning on 19.10.2012 (Annexure P-3), second enquiry is not maintainable and is liable to be rejected as period of absence from 19.10.2012 to 12.11.2012 amounts to misconduct for which enquiry was conducted. He was given opportunity to file reply and lead evidence. The petitioner filed his reply but no evidence was led to justify his absence from duty for a period of 02 months 11 days and 15 minutes and hence the enquiry report does not suffer from any illegal infirmity and punishment order dated 03.05.2013 (Annexure P-6) was rightly passed which was modified in appeal vide order dated 15.07.2013 (Annexure P-8) and revision was also dismissed vide order dated 25.09.2013 (Annexure P-9).

No ground to interfere in the impugned orders 03.05.2013 (Annexure P-6), 15.07.2013 (Annexure P-8) and 25.09.2013 (Annexure P-

9) is made out as this is not the case where the petitioner has been punished second time for the same charges.

Dismissed.

30.01.2019
Divyanshi

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No