

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

**CWP No.22309 of 2019
Date of decision:22.08.2019**

Satpal Singh

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sunil Kumar Goswami, Advocate
for the petitioner.

AMIT RAWAL J.

Challenge in present writ petition has been laid to impugned orders dated 18.01.2017 (Annexure P-9), 24.03.2017 (Annexure P-11), 12.06.2018 (Annexure P-12) and 26.10.2018 (Annexure P-13).

The facts which emanate from the writ petition are that petitioner, on 27.10.1992, was appointed on the post of Warder and had been discharging the duties since then. While posting as Jail Warder in District Jail, Sonapat, he went on leave for two days i.e. 02.12.2015 and 03.12.2015. The Superintendent of Jail, Sonapat sanctioned the leave aforementioned. On 04.12.2015, request was sent for, extension of leave for 07 days, to the Superintendent, Jails, Sonapat through E.mail from Adampur. The petitioner was informed that his leave application was rejected. In fact, 08.12.2015, daughter of the petitioner had also sent an application to the Director General of Jail for grant of 07 days leave as during this period, he had suffered from hepatitis, was taken to Vishan

Ayurvedic Hospital, Hisar for treatment and was advised bed rest, thereafter, on 11.12.2015, for another 18 days. The condition of the petitioner had become worse and thus, absence was neither willful or intentional but owing to unavoidable circumstances, i.e. health conditions.

The petitioner remained under treatment from 28.01.2016 to 11.07.2016. On 13.07.2016, petitioner approached the Superintendent, Headquarters Jail and on his request, Superintendent Headquarters Jail vide letter dated 13.07.2016 (Annexure P-6) directed the Superintendent, District Jail Sonapat to take the petitioner on duty. For remaining absent (total 200 odd days w.e.f 6.5.2015 to 09.09.2015, i.e. 127 days and 73 days w.e.f. 20.05.2014 to 31.07.2014), petitioner was charge-sheeted under Rule 11 of Punjab Jail Department Executive Staff (Punishment and Appeal) Rules 1943 read with sub-rule (15) of the Punjab Jail Department State Services Class III Executive Rules 1963 vide office letters dated 09.10.2014 and 03.09.2015 (total 200 odd days w.e.f 6.5.2015 to 09.09.2015, i.e. 127 days and 73 days w.e.f. 20.05.2014 to 31.07.2014). One Resham Singh, Deputy Superintendent Jail was appointed as Enquiry Officer to enquire into allegations and enquiry officer vide his report dated 03.10.2016 (Annexure P-7) holding the petitioner guilty of the charges. Superintendent Headquarters agreeing with the report of enquiry officer issued show cause notice dated 07.10.2016 (Annexure P-8). Vide impugned order dated 18.01.2017 (Annexure P-9), services of the petitioner have been dispensed with. Statutory remedy of appeal was availed before the Director General Jails Department which was also dismissed vide order dated 24.3.2017

(Annexure P-11). Revision preferred against the aforementioned, was also dismissed vide order dated 26.10.2018 (Annexure P-13).

Learned counsel appearing on behalf of the petitioner submitted that the impugned orders are illegal and arbitrary, much less against the facts. The petitioner had duly submitted an application for extension of leave which was also followed by request of daughter but no response was given, therefore, he could not be faulted as the absence was for the reasons beyond his control i.e. ailment, medical record is the testimony of the same. There is no allegation of fraud, therefore, harsh punishment could not have been given, rather should have been minor punishment having lessor intensity.

I have heard the learned counsel for petitioner, appraised paper book and of view that there is no force and merit in the submissions of Mr. Goswami.

It is a matter of record that on receipt of charge sheet, petitioner did not file reply nor sent any medical record. Owing to his previous absence from duty, i.e. w.e.f. 20.05.2014 to 31.07.2014 for 73 days, petitioner was awarded punishment of stoppage of three annual increments with cumulative effect and failed to give any reasonable reply or documents before the enquiry officer justifying his absence, period in question i.e. 04.12.2015 to 13.07.2016. He has been habitual absentee and therefore, punishment imposed cannot be said to be harsh, in fact, is justified. A person belonging to such force cannot be permitted to remain absent for infinite period without any reasonable cause. After having been imposed the

punishment earlier, dismissal order is a necessary corollary.

No ground for interference is made out.

Dismissed.

(AMIT RAWAL)
JUDGE

August 22, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No