

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

CWP No. 4116 of 2014.

Date of Decision: 14.01.2019.

Dr. Ravinder Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Sharwan Sehgal, Advocate,
for the petitioner.

Mr. Vikas Mohan Gupta, Addl. AG Punjab.

JITENDRA CHAUHAN.J.

The instant petition has been filed under Articles 226/227 of the Constitution of India for quashing the order dated 14.09.2012 (Annexure P-6) vide which the petitioner was removed from service and the appeal filed before the appellate authority was also dismissed.

The petitioner was appointed as Medical Officer in the Department of Health and Family Welfare with effect from 04.03.1991 on regular basis. During service, an FIR No.268 dated 04.09.2006 was lodged in Police Station Civil Lines, Amritsar under Section 302 IPC and the petitioner was arrested on 08.10.2006. He remained in custody till 23.05.2009. After he was released from the custody, he fell seriously ill and remained admitted in private hospital with effect from 25.05.2009 till 22.06.2009. Thereafter, the petitioner submitted his joining report on 22.06.2009 to respondent No.1 but was not allowed to join the duty. Again another criminal case bearing FIR No.13 dated 18.08.2009 was registered against the petitioner under Sections 465, 467 and 471 IPC and in that case petitioner remained in

custody from the period 10.10.2009 till 16.12.2009. Petitioner was placed under suspension on 27.08.2009 and thereafter charge-sheet was issued on 07.10.2009 on the ground of remaining absent from duty. The petitioner submitted reply to the said charge sheet on 24.12.2009 wherein he had submitted that he never remained absent from duty but on account of incarceration behind bars, he was unable to perform his duty. A departmental inquiry was held in which the petitioner was held guilty. Vide order dated 14.09.2012 the petitioner was dismissed from service. The appeal filed by the petitioner was rejected vide order dated 14.11.2013.

It is contended by the learned counsel for the petitioner that the petitioner was behind bars so he cannot be presumed to be willfully absent from duty and there is no occasion for disobeying the orders of his superiors.

On the other hand, on behalf of the respondents, it is pleaded that the petitioner never informed the department about his custody in FIR No.268 dated 04.09.2006 in which he remained behind bars from the period 09.10.2006 to 23.05.2009. Since the petitioner remained absent from duty with effect from 09.10.2006, letters were issued to the petitioner to join the duties. However, letters written to the petitioner on different addresses were never replied by the petitioner. On account of his wilful absence from duty with effect from 09.10.2006, disobeying the orders of the higher authorities and on ground of non examining of patients on the pretext of accidents and

not prescribing of medicines, charge-sheet was issued on 07.10.2009 in which the punishment from dismissal from service was awarded.

It is contended by the learned State counsel that the petitioner has concealed the factum of his arrest in criminal case under Section 302 IPC from the department as he never intimated the department about his arrest. Since the department had no knowledge of his arrest, various letters were written to the petitioner on the given address which were never replied. Therefore, it is a case of willful absence from duty for a long period from 09.10.2006 to 23.05.2009 and again on 24.05.2009 to 22.06.2009.

Heard.

The conduct of the petitioner in not informing the department of his arrest in a criminal case under Section 302 IPC for a long period would itself constitute a grave misconduct coupled with willful absence from the duty. In case he had informed the department of his arrest on 09.10.2006, in terms of the mandatory provisions under Punjab Civil Service Rules and Punishment and Appeal Rules, 1970 the petitioner would have been placed under suspension in October, 2006 itself. Therefore the act of the petitioner in not informing about his arrest in a criminal case of grave nature cannot be said to be a *bonafide* act.

Dismissed.

14.01.2019.
SN

(JITENDRA CHAUHAN)
JUDGE

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