

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

(1)

CWP No. 345 of 2015.

Date of Decision: 06.02.2019.

Harbans Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

(2)

CWP No. 356 of 2015.

Gurwant Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Ashok Bhardwaj, Advocate,
for the petitioner(s) in both the petitions.

Mr. Navdeep Chhabra, DAG, Punjab.

JITENDRA CHAUHAN.J.

This judgment shall dispose of aforementioned two civil writ petitions as common questions of facts and law are involved therein.

The facts are being taken from C.W.P. No. 345 of 2015. The petitioner has challenged communication dated 15.03.2011 (Annexure P-5) vide which mercy appeal filed by the petitioner was dismissed; order dated 07.10.2003 (Annexure P-3) vide which revision petition filed by the petitioner was dismissed; order dated 12.05.2003 (Annexure P-2) vide which appeal was dismissed; and order dated 28.12.2002 (Annexure P-1) vide which he was dismissed from service.

It is contended that the petitioner was appointed as Constable on 17.03.1987 and was assigned constabulary No.1626/W.

The petitioner was serving at Radio PP Jaladiwal, Police District Jagraon as Constable and was recommended to undergo training of OGT course of PRTC, Jehan Khelan on 28.03.2001. The petitioner was sent back to Police Unit on 15.05.2001 for alleged absence of 17 days. The petitioner was served with a charge-sheet to the effect that he was found absent on 28.04.2001 at the time of evening counting. Vide order dated 07.11.2001, departmental inquiry was initiated against the petitioner. In the inquiry report it was held that the petitioner remained absent for 74 days from 28.04.2001 to 10.07.2001 without leave. Vide order dated 28.12.2002 (Annexure P-1), the petitioner was dismissed from service. Vide subsequent orders, his appeal, revision and mercy petition were also dismissed.

It is contended that the impugned orders are arbitrary and discriminatory in nature inasmuch as similarly placed co-employee, Gurjant Singh Constable was also dismissed from service for absence of 199 days. However, his mercy appeal was accepted and he was reinstated in service vide order (Annexure P-6). Similarly, another employee Hakam Singh was dismissed from service but his mercy appeal was accepted by respondent No.1. The petitioner has been treated differently by the authorities whereas, like should be treated alike.

On the other hand, it is contended that during the entire service period, on different occasions, the petitioner remained absent for a period of 3295 days out of which 1462 days were treated as non-

duty period and a period of 1833 days was treated as leave without pay. The petitioner is a habitual absentee. He was repeatedly deputed to undergo the mandatory basic training but he failed to pass the said training course. In the year 1989 the petitioner was dismissed from service however, subsequently he was reinstated in service. He was deputed to undergo basic recruit course at PRTC, Jahan Khelan on 09.06.1990 but he willfully absented himself without any prior permission or intimation to the department.

Heard.

Considering the period of absence and the entire service record of the petitioner, the Court finds no defect in the orders passed by the competent authorities. The petitioner is a member of disciplined force. Out of 15 years, 9 months of service, the petitioner absented himself from duty for 3204 days.

No ground for interference is made out.

Dismissed.

However, in case the reply/affidavit reflecting the absence of the petitioner filed by the State is found to be against the record, the petitioner(s) shall have the liberty to revive the present petition(s) or file afresh one.

A photocopy of this order be placed on the files of other connected case(s).

06.02.2019.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No