

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.22647 of 2019

Date of Decision: August 27, 2019

Constable Krishan Kumar

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Lajpat Sharma, Advocate,
for the petitioner.

AMIT RAWAL, J.

Challenge in the present writ petition is to the enquiry report dated 25.05.2015 (Annexure P-1), impugned order dated 12.08.2015 (Annexure P-2), whereby petitioner has been dismissed from service, orders dated 04.10.2017 and 08.05.2019 (Annexures P-4 & P-6), vide which appeal and revision preferred have been dismissed.

According to the averments in the petition, on 10.06.2007 petitioner was initially appointed in police department under the category of Ex-servicemen as Constable. Since the date of appointment, his work and conduct was good and satisfactory and was also awarded Commendation Certificate Class-III dated 11.05.2009. While being posted as Rider-2 in Police Station DLF-II Gurugram in July, 2013, vide order dated 26.07.2013, petitioner was transferred from Police Station DLF Phase-2 to Police Line Gurugram, but he did not mark his presence in the Police Line and was shown to be absent. Total period of absence was 2 years and 10 days

approximately. As per the information received under Right to Information Act, charge sheet was issued and accordingly Enquiry Officer was appointed suggesting gravest punishment.

Mr. Lajpat Sharma, learned counsel representing the petitioner submitted the petitioner did not receive any communication, which was, in fact received by his wife. He was suffering from depression and, therefore, was not aware of the proceedings being disoriented. There is no compliance of the provisions of Rule 16.2 of the Punjab Police Rules, 1934 (as applicable to State of Haryana). In support of the aforementioned contention, reliance has been laid to the judgment rendered by this Court in **Mahipat Versus State of Haryana, 1994(3) S.C.T. 337**. Dismissal from service is the harshest punishment and cannot be equated with the gravest act, i.e., in tandem with the language of Rule 16.2, *ibid.*, and thus prayed for setting-aside the impugned orders.

I have heard the learned counsel for the petitioner and appraised the paper book.

Concededly, the facts on record are that the petitioner even did not file any reply to the charge sheet nor participated in the departmental proceedings. Nonetheless there is no record of medical, thus, there is no explanation of absence for 2 years and 10 days. A person belonging to a disciplined force cannot be negligent towards his official duty. There can be a circumstance where absence was due to unavoidable circumstances, which is conspicuously wanting in the present case. This, in my view, would mean to the gravest act and imposition of punishment of dismissal from service is the correct view. Enquiry report has already been examined at length by the appellate authority as well as revisional Court. This Court cannot interfere

unless and until there is gravest mistake.

There is no dispute to the ratio decidendi culled out in the judgment cited supra, but the absence in the aforementioned case was not of such a magnitude entailing into imposition of punishment of a lesser gravity.

In view of what has been observed above, I do not find any illegality in the action of the respondents. Resultantly, the writ petition is dismissed.

August 27, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No