

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP NO. 26837 of 2019(O&M)
DATE OF DECISION : 14.11..2019

Atma Singh

... Petitioner

versus

State of Punjab & Ors.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Pushpinder Kaushal, Advocate,
for the petitioner.

ARUN MONGA, J.

1. *Inter alia* issuance of a writ in the nature of *certiorari* has been sought seeking to quash order dated 09.09.2004(Annexure P-2) passed by the Disciplinary Authority whereby petitioner has been awarded punishment of forfeiture of 3 years of service with permanent effect and period of 67 days of unauthorized leave by him is to be treated as non-duty period. Aggrieved, petitioner preferred an appeal belatedly which too was dismissed vide appellate order dated 23.04.2015(Annexure P-4) and a revision petition against the same too was declined vide order dated 23.09.2015(Annexure P-5). Thereafter, petitioner once again sought mitigation of his grievance vide mercy petition, which too was dismissed vide order dated 04.10.2018 (Annexure P-9) impugned herein.

2. Succinct factual narrative. Petitioner at the relevant time was serving as Assistant Sub Inspector (Local Rank) and was posted at Service Training Centre, Punjab Armed Police, Jalandhar Cantonment. In course of his duties, he was sent to Patiala to deliver a post and on his return, his

health condition deteriorated. He got himself treated from one private Physician, namely, Dr. Laxman Dass Bajaj, MBBS Jalalabad, resulting in his absence from duty for a period of 11+57=68 days, without seeking any prior authorization. Hence, the punishment orders and the subsequent proceedings leading to the filing of instant writ petition.

3. Having heard learned counsel for the petitioner and on perusal of the contents of the writ petition along with the record appended thereto, I am of the view that no interference is called for by this Court in extraordinary writ jurisdiction vested under Article 226 of Constitution of India as no legal infirmity of the kind has been pointed so as to quash the impugned orders, as prayed for.

4. This Court is in agreement that the petitioner had himself acquiesced to the punishment awarded to him and belatedly resorted to the appellate and subsequent proceedings. Not only that, the purported cause of action to invoke the writ jurisdiction is based on an order dated 04.10.2018 passed in a mercy petition. On a query posed by the Court, learned counsel for the petitioner was unable to show any legal provision entitling the petitioner to file a mercy petition that too after such an inordinate delay of passing of original punishment order.

5. Even otherwise, having perused the medical record/ certificates relied upon by the petitioner to justify his unauthorized absence, the same too do not inspire any confidence. No explanation worth of being plausible has come forward as to why the petitioner did not have treated himself at Government hospital. Even the first medical certificate dated 05.08.2003 issued by the private practitioner reflects that petitioner was merely getting treatment as an OPD patient initially for 11 days from 05.08.2003 to

15.08.2003 on being ostensibly diagnosed with “acute gastroenteritis” with pain in abdomen. One wonders, as to how would a Physician advise rest for calculated period of 11 days merely because an OPD patient complains of stomach-ache. The second certificate dated 03.11.2003 has also been issued by the same Physician, this time diagnosing the petitioner with disc prolapsed and fracture of right shoulder, prescribing medical rest once again for a calculated period of 55 days from 03.11.2003 to 25.12.2003, raising comprehensible suspicion as to how would a patient recover with such mathematical calculations of the days, as has been stated in the medical prescriptions.

6. On the other hand, the Physician who had issued the certificate is not even specialized being only an MBBS. While one certificate has been issued seemingly being an expert “Gastroenterologist” and the other one perhaps in his capacity as an expert “Orthopedician”. However, without commenting any further on the same, *suffice* to say that said medical certificates do not inspire any confidence on the merits of the justification rendered by the petitioner to remain absent unauthorizedly for a period of 67 days.

7. Seen from any angle, writ petition is devoid of merits and the same is accordingly dismissed.

(ARUN MONGA)
JUDGE

November 14, 2019
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| 1. | Whether speaking/ reasoned: | Yes/ No |
| 2. | Whether reportable: | Yes/ No |