

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

**CWP No. 17464 of 2016
Date of decision : 06.05.2019**

Constable Kuldeep Singh **...Petitioner**
versus

State of Haryana and ors. **...Respondents**

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. K.C. Rajput, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana

RITU BAHRI, J.

The petitioner is seeking issuance of writ in the nature of certiorari for quashing the impugned order dated 28.08.2006 (Annexure P-1) and order dated 24/25.09.2013 (P-2) and 27.10.2014 (P-3).

Brief facts of the case are that the petitioner was posted as Constable under the control of Superintendent of Police, Sonapat. Vide order dated 13.01.2006, the petitioner was dismissed from service, as he was found absent from duty for a total period of 134 days 09 hours and 55 minutes. This order was modified in departmental appeal to IGP, Rohtak Range, Rohtak vide order dated 20.04.2006 and a punishment of stoppage of three increments with permanent effect was imposed upon petitioner. The petitioner preferred revision against order dated 20.04.2006 and vide order dated 03.09.2013, the punishment was reduced from permanent effect to temporary effect.

Now the grievance of the petitioner before this Court is that the period i.e 13.01.2006 to 25.04.2006 be treated as period spent on duty, on

the ground that the order of dismissal was set aside and punishment of stoppage of three increments with permanent effect was imposed upon petitioner, which was further reduced to stoppage of three increments with temporary effect. The petitioner is entitled to revision of pay scale w.e.f 01.01.2006 and pay in pay band and grade pay of Rs.14740/- as on 01.07.2013 and of Rs.15650/- w.e.f 01.07.2015 in terms of Rules. The existing pay band of the petitioner was to be multiplied by the factor 1.86 and rounded of the resultant figures to the next multiple of 10.

On notice of the petition, a reply dated 19.04.2017 has been filed and the stand taken by the respondent is that the petitioner is imposed for major punishment i.e stoppage of three increments with temporary effect so decision of his suspension period and absence period is treated as period not spent on duty and without pay for all intents and purposes as per CSR Volume 7.3 Vol I, Part I vide IGP/Rohtak Range, Rohtak Memo dated 28.08.2006, which reads as under:-

“7.3. (1) When a Government employee, who has been dismissed, removed or compulsorily retired, is reinstated as a result of appeal, revision or review, or would have been so reinstated but for his retirement on superannuation while under suspension or not, the authority competent to order re-instatement shall consider and make a specific order—

(a) regarding the pay and allowances to be paid to the Government employee for the period of his absence from duty including the period of suspension, preceding his dismissal, removal or compulsory retirement, as the case may be; and

(b) whether or not the said period shall be treated as a period

spent on duty

After going through the above Rule, the present petition deserves to be dismissed, as the petitioner in the present case was dismissed from service and his dismissal was further reduced by imposing the punishment of stoppage of three annual increments with permanent effect and which was further reduced to stoppage of three annual increments with temporary effect. It is the competent authority, who was required to pass the order. As per Haryana Government 06th pay commission notification, any employee is not entitled to annual increment w.e.f 01.07.2006 who is absent/suspended/dismissed w.e.f 01.01.2006 to 30.06.2006. As per the above Rules, the petitioner was not entitled for treating his period w.e.f 13.01.2006 to 25.04.2006 as period spent on duty due to stoppage of three annual increments with temporary effect.

In view of the above discussion, the present petition stands dismissed being devoid of any merit.

06.05.2019

G Arora

Whether speaking/reasoned
Whether reportable

(RITU BAHRI)
JUDGE

Yes
No