

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

**CWP-12026-2020 (O&M)
Date of Decision : 18.08.2020**

Satpal Singh Petitioner

Versus

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE RAMENDRA JAIN

Present : Mr. R.K.Arora, Advocate
for the petitioner.

Mr. Sharad Aggarwal, Addl. A.G., Haryana.

RAMENDRA JAIN, J. (Oral)

Case has been taken up for hearing through video conferencing due to the outbreak of Pandemic COVID-19.

Through this petition under Articles 226/227 of the Constitution of India, prayer has been made for quashing the order dated 23.10.2019 (Annexure P-14), passed by respondent No.1, whereby review petition, filed by petitioner has been dismissed while upholding the order of dismissal from service dated 18.08.2004 and Orders 04.01.2005 and 06.04.2005, passed in appeal and revision respectively.

Learned counsel *inter alia* contends that while passing the order of dismissal of the petitioner (Annexure P-14), Rule 16.02 of the Punjab Police Rules, applicable to Haryana, was not taken into consideration. The Punishing Authority also failed to appreciate that the absence of petitioner was beyond his control as he was

hospitalized during that time. The Punishing Authority also failed to consider that petitioner has 16 years of service to his credit. Thus, his right of pension has illegally been curtailed.

Heard.

Having given thoughtful consideration to the submissions, this Court finds the instant petition merits dismissal for the reasons to follow.

Earlier, the petitioner approached this court by way of CWP No.14391-2019 which was disposed of vide order dated 11.09.2019(Annexure P-13) with advise to the petitioner to appear before the Addl. Chief Secretary, directing him to pass appropriate order after affording adequate opportunity.

Pursuant to that order, affording opportunities of personal hearing to petitioner, impugned order dated 23.10.2019 (Annexure P-14) was passed, giving detailed reasons.

Perusal of said order shows that petitioner is a black sheep for the police department, which is a disciplined force of the State. Relevant portion of the impugned order is reproduced hereunder:-

“Examination and Consideration

And whereas, after hearing the petitioner and having gone through the relevant record placed on file, it is observed that the petitioner remained absent from duty for 232 days without any intimation and even without applying for any kind of leave. It may be noted here that the petitioner is a habitual absentee.

- | | | | |
|-----|--------------------------|---|------------------------------|
| i) | 19.04.1991 to 30.09.1991 | - | 165 days (Leave without pay) |
| ii) | 26.12.1999 to 27.12.1999 | - | 1 day (leave without pay) |

- iii) 31.12.1999 to 21.02.2000 - 52 days (leave without pay)
- iv) 08.06.2000 to 05.08.2000 - 58 days (leave without pay)
- v) 25.03.2001 to 30.03.2001 - 6 days (leave without pay)
- vi) 07.04.2001 to 17.04.2001 - 10 days (leave without pay)
- vii) 05.09.2001 to 22.09.2001 - 18 days (leave without pay)
- viii) 27.03.1999 to 15.05.1999 - 49 days and 10.10.1999 to 29.11.1999 - 49 days total 98 days, for which a departmental inquiry was got conducted and the punishment of stoppage of 5 annual increments with permanent effect was imposed upon him vide order dated 06.08.2001. However, in the appeal, the appellate authority vide order dated 30.09.2002 reduced the punishment to that of stoppage of 3 annual increments without cumulative effect. He was also awarded punishment of censure for remaining absent in the year 1997.

During the course of hearing, a specific question was put to the petitioner, as to whether he applied for any kind of leave and the petitioner stated that he did not apply for any kind of leave. Not only this, the petitioner had the opportunity to get himself medically examined and he could have approached the authorities for his examination through a medical board also. On the other hand, the act and conduct of the petitioner not only remaining unauthorized and willfully absent from duty but also showing total defiance in not applying for leave would itself shows the gravest act on his part. Even one act of grave misconduct is sufficient to attract the penalty as held by the Hon'ble High Court in case State of Haryana Vs. Lakhan Lal, 1991 (3) RSJ 530 as under:-

“Even one act of misconduct would be sufficient to attract the applicability of R. 16.2(1) provided the act is gravest. The gravest act, of course, is incapable of any strict definition. The distinction has to be drawn by the punishing authority between misconduct and grave misconduct. Misconduct should not be of an ordinary nature and it always has to be of a serious nature. The use of the word 'gravest' only means that it has to be of a

superlative degree than what a particular act can just be described to be 'grave'. The gravest act does not mean that the number of acts complained of should be more than one. The use of the word 'acts' in R. 16.2(1) can be said to include a single gravest act of misconduct. It has to”

Reliance is also placed on case Man Singh vs. Union of India and Ors., 2003 (2) RSJ-290 (SC and Mithilesh Singh vs. Union of India Ors., 2003 (2) RSJ-231(SC) and LPA No.1120 of 2012-Beer Singh Vs. State of Haryana & Ors. Decided on 28.09.2012, wherein the authorities were held justified in passing the order of punishment on account of absence from duty. Further, the Hon'ble High Court in the cases of Ex. Constable Sat Pal vs. State of Haryana, 1998 (2) SCT 408 and Rajesh Kumar vs. State of Haryana and others, 2005 (3) SCT 512 has held that absence from duty is a gravest act of misconduct. The Hon'ble Supreme Court also in the case of State of U.P. vs. Ashok Kumar and another, AIR 1996 SC 736 has held absence from duty in a disciplined force to be an act which would amount to a gravest act of misconduct. Thus, the opinion formed by the Punishing Authority that the misconduct of the petitioner amounts to a gravest act of misconduct which is sufficient to award punishment of dismissal from service is in consonance with law and is justified as the conduct of the petitioner does not leave any manner of doubt that he is incorrigible and completely unfit for police service. Keeping a police officer in service where he is absent from duty without intimation would create indiscipline and would encourage others also to indulge in such type of misconduct which would leave the police force a paralysed, ineffective and inactive force which cannot be permitted.

And now, therefore, in view of the facts and

circumstances of the case and for the reasons recorded above, the review petition filed by the petitioner has been considered and the same is hereby dismissed.”

Perusal of the impugned order shows that the same is well reasoned speaking order, based on appreciation of entire facts, circumstances and evidence. Therefore, no interference is called for.

Dismissed.

18.08.2020

mamta

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No