

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
(Heard through VC)**

**CWP No. 2881 of 2019 (O&M)
Date of Decision: 14.3.2022**

Head Constable Kuldip Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Ms. R.K. Arya, Advocate
for the petitioner.

Mr. Kanisth Ganeriwala, AAG, Punjab.

JAISHREE THAKUR, J.

1. The petitioner herein by way of instant writ petition seeks quashing of the order dated 27.10.2015 passed by respondent No. 3, whereby one year approved service for increment of the petitioner has been forfeited with permanent effect and also for quashing the order dated 26.2.2018 passed by respondent No. 2 enhancing the punishment of forfeiture of one year approved service for increment to that of forfeiture of two years approved service with permanent effect.

2. In brief the facts are that the petitioner was appointed as Constable in the Police Department on 10.3.1992 and thereafter was promoted as Head Constable. While posted to Police Lines, Gurdaspur on 31.12.2012, the petitioner remained absent from duty and reported only on 7.3.2013 after remaining absent for 65 days, 17 hours and 40 minutes. A departmental inquiry was held and the petitioner relied upon the medical

certificate to substantiate his plea that he was on medical treatment and had been advised complete bed rest. On conclusion of the departmental inquiry, the Inquiry Officer held the petitioner guilty of absent from duty and then a show cause notice was served upon the petitioner by Senior Superintendent of Police, Gurdaspur, proposing punishment of forfeiture of one year approved service for increment with permanent effect. A reply was given to the show cause notice stating the reason for remaining absent from duty. However, the Senior Superintendent of Police, Gurdaspur, by order dated 27.10.2015 forfeited one year approved service of the petitioner for increment with permanent effect.

3. The appeal filed by the petitioner before the Deputy Inspector General of Police, Border Range, Amritsar, was dismissed and the punishment was enhanced to forfeiture of two years approved service of the petitioner with permanent effect, which has led to the filing of the instant petition.

4. Learned counsel for the petitioner would limit his argument to the extent that as per the provisions of the Punjab Police Rules, 1934 (hereinafter referred to as '**the Rules**'), the order of forfeiture of two year's approved service permanently is not permissible and only stoppage of increment or forfeiture of approved service for increment was permissible. In this regard, he would rely upon the judgment rendered by this Court in **Harinder Singh Versus State of Punjab and others 2013 (1) PLR 302**, which judgment has been passed by placing reliance upon **Punjab State Versus Joginder Singh 1992 (3) SCT 671**.

5. Per contra, learned counsel for the respondent—State would argue that the petitioner herein, who is Head Constable, belonging to the disciplined force, remained absent from duty without due intimation and, therefore, there is no infirmity with the impugned order so passed.

6. I have heard learned counsel for the parties and have also gone through the pleadings as well as the law as cited.

7. Admittedly, the petitioner herein was charge sheeted for remaining absent from duty for 65 days, 17 hours and 40 minutes without prior sanction. A department inquiry was held and a show cause notice was issued and after due consideration of the inquiry report, the Senior Superintendent of Police imposed the punishment of forfeiture of one year approved service for annual increment and his absent period was treated as period without salary. This order was appealed against and by the impugned order, the Deputy Inspector General of Police, Border Range, Amritsar forfeited two years approved service of the petitioner permanently, for which there is no such provision in Rule 16.2 of the Rules. As per the Rules, for departmental punishment, there is dismissal in service, reduction in rank, *stoppage of increment or for forfeiture of approved service of increment, entry of censure, confinement to quarter for a period not exceeding 15 days etc.* A reading of the said Rule would clearly indicate that there is no such provision prescribed under the Rules for forfeiture of approved service as has been done in the instant case.

8. A similar matter was also decided in **CWP No. 9146 of 1994 titled Constable Sarjinder Singh V. State of Punjab and others decided on 3.10.2012** wherein it has been held that forfeiture of approved service

could not be imposed as the said punishment was not provided under the Rules. Consequently, this Court is of the opinion that the impugned order is not sustainable.

9. For the reasons afore-stated, the writ petition is allowed, the impugned order is set aside and the matter is remanded back to the respondents to pass a fresh order within a period of two months from the date of receipt of a copy of this order.

14.3.2022*prem***(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned :	Yes
Whether Reportable :	No