

Sr. No.729

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-6660-2001 (O&M)
Date of decision: 25.05.2022

Ex.Constable Surinder Kumar

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None for the petitioner.

Mr. R.D.Sharma, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of certiorari to quash the orders dated 07.08.2000 and 08.03.2001 (Annexures P-4 and P-7 respectively) vide which the petitioner was dismissed from service and his appeal against dismissal has been rejected.

2. Petition was admitted for hearing on 09.07.2002.

3. When taken up for final adjudication, there is no representation on behalf of the petitioner. It seems that by sheer effluxion of time and pendency of the writ petition for more than 20 years before this Court, either it has been rendered infructuous or even otherwise the petitioner seems to have lost interest in pursuing the same.

4. In any case, from perusal of record/pleadings, it appears that even on merits, claim of the petitioner is not admissible. Reference may in particular be had to the very first opening para of the written statement.

5. It is stated by respondents that the petitioner while posted as Constable in District Mahandergarh at Narnaul was deputed for temporary duty to District Rewari and was sent back to District Narnaul to face the departmental enquiry, the petitioner was to report at the place of his temporary posting in district

Rewari on 5.12.1995. However, the petitioner did not report his arrival in Police Lines, Rewari and absented himself voluntarily and intentionally without sanction of any leave from the higher authorities. Distt. Inspector, Narnaul was appointed as Enquiry Officer and during the enquiry the charges levelled against the delinquent/petitioner were proved. Petitioner was dismissed from service by the punishing authority, S.P.Narnaul vide his order dt. 7.8.1996. The petitioner then filed an appeal against the said order of dismissal before the DIG/Ranga, Gurgaon which was also rejected on 11.4.1997.

6. Prior to filing the instant writ petition, the petitioner in the earlier round preferred a civil suit assailing order dated 07.08.1996 vide which he was dismissed from service. The said civil suit was allowed but only to the limited extent of setting aside the dismissal order with a direction to issue a fresh show cause to the petitioner pursuant to the inquiry report. Department though preferred an appeal against the said judgment and decree dated 03.11.1998, passed by the trial Court, Gurgaon but did not succeed as the appeal was dismissed by the First Appellate Court on 28.05.1999.

Thereafter, the petitioner was issued a fresh show cause notice on 26.5.2000 and after giving him personal hearing, the petitioner was dismissed from service by the respondent No.4 vide order dated 7.8.2000. An appeal against the said order was filed by the petitioner before the respondent No.3 which was also rejected vide order dated 8.3.2001.

As per respondents, both the orders dated 7.8.2000 passed by the punishing authority respondent No.4 and dated 8.3.2001 of the appellate authority, respondent No.3 are quite legal, as per provision of Punjab Police Rules, according to Principles of Natural Justice and passed under due process of law, liable to be sustained, as such the same are binding upon the rights of the petitioner.”

7. Furthermore, having perused the service record of the petitioner as has been reproduced in the reply, it appears that petitioner has been habitual delinquent in as much as he was meted out with punishment on eleven occasions for different acts of omission and commission committed by him during his service career which are enumerated in the written statement as below:-

- (i) *The petitioner awarded 10 days punishment Drill while he was found indisciplined on 'Santri' duty in P.S. Sadar Gurgaon, vide Order Book No.149 dated 23.3.82 (Annexed herewith as Annexure R-1)*
- (ii) *The petitioner awarded 5 days punishment Drill vide Order Book No.40 dt. 3.2.84 while he absented himself from duty from Police Lines, Gurgaon.*
- (iii) *The petitioner was awarded 10 days Punishment Drill vide Order Book No.181 dated 26.3.84 while he absented himself from duty from Police Lines, Gurgaon.*
- (iv) *The petitioner was punished with stoppage of six future annual increments on the ground of absence vide Order Book No.527 dated 29.8.84.*
- (v) *One annual increment was stopped temporarily as the plaintiff was found absent repeatedly while posted in the guard at Treasury, vide Order Book No.517 dated 28.8.90.*
- (vi) *A punishment of Censure on account of absent was passed vide Order No.756-57/Steno dated 7.11.1994 and Order Book No.337/94.*
- (vii) *A punishment of warning on account of absent was passed vide Order Book No.76/96.*
- (viii) *A punishment of 15 days Punishment Drill and 9 days extra ordinary leave on account of absent was passed vide Order Book No.214/96.*
- (ix) *A punishment of 15 days Punishment Drill and 5 days extra ordinary leave on account of absent was passed vide Order Book No.230/96.*
- (x) *The petitioner was warned to be more careful in future vide Order Book No.230/96.*

(xi) A punishment of 5 future annual increments stopped with permanent effect awarded vide order No.60-61/Steno dated 25.1.2000 for consuming liquor while on duty.

8. I am of the view that despite aforesaid punishment, leniency was shown by the competent authorities, perhaps with a hope that petitioner would improve in his act and conduct. On the contrary, though the department was at liberty to take stricture view of his delinquency and since a lenient view was taken, the petitioner continued to be incorrigible and remained habitual offender until he was finally dismissed from service.

9. In view of the aforesaid, no grounds are made out to interfere with the impugned orders.

10. Dismissed.

25.05.2022
mamta/mahavir

(ARUN MONGA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No