

212.

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

**CWP-2775-2017**

Date of Decision: 06.04.2022

**RAJBIR SINGH AND ANR.**

.... Petitioners

Versus

**STATE OF HARYANA AND ORS.**

.... Respondents

**CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. G.S. Gopera, Advocate,  
for the petitioners.

Mr. Tapan Kumar, DAG, Haryana.

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**JAISHREE THAKUR.J**

The petitioners herein are aggrieved against the order dated 04.10.2016 (Annexure P-3) whereby treating them absent from duty, punishment of stoppage of five annual increments with permanent effect has been imposed upon them with a stipulation that for the period they were absent would be treated as period of 'no work no pay'.

In brief, the facts of the case are that the petitioners were enrolled as Constables on 03.11.2004. During the course of service, petitioners No.1 and 2 earned 23 good entries against one single entry of censure and 14 good entries against 4 entries of censure respectively. Petitioner No.1, on the basis of his good service, was promoted as officiating Head Constable. The petitioners, who were members of the Haryana Police Karamchari Sangh, marched peacefully on 01.11.2015 under the leadership

of their President and other office bearers from Police Line Fatehabad to Chandigarh to present their charter of demands. In fact the petitioners were on casual leave on the said date. The petitioners, who were on causal leave from 31.10.2015 to 03.11.2015 and 02.11.2015 to 06.11.2015 respectively were not on official duty on the date they participated in the march towards Chandigarh to submit their charter of demands. They got their leave extended by sending a fax on 03.11.2015. However, the petitioners were declared absent from duty for 7 days, which resulted in a departmental enquiry being initiated against them. The allegation levelled against the petitioners was that they participated in a *pad yatra* without prior permission of the competent authority. The Enquiry Officer submitted his report holding them guilty of the charges framed and the competent authority imposed a punishment of dismissal from service while holding that their suspension period would be treated as not spent on duty and the absent period as leave without pay. Their appeal also came to be dismissed, however, in revision, the order of dismissal was modified to that of punishment of stoppage of five annual future increments with permanent effect. The mercy appeal to the Government stood dismissed.

Learned counsel appearing on behalf of the petitioners would contend that the petitioners herein participated in the *pad yatra* only to submit their charter of demands as their grievance was genuine. It is submitted that other officials in uniform were also a part of the procession and no action has been taken against them. It is argued that the petitioners were not paid any subsistence allowance during suspension period which is contrary to law and it is only the petitioners who were charge-sheeted and

awarded severe punishment while no action was taken against the other police officers who were part of the procession. It is also argued that the evidence adduced by the office bearers of the Association that *pad yatra* was organized by the Association after due permission, has not been taken into account. It is also argued that imposition of stoppage of five annual increments with permanent effect is on the harsher side.

Learned counsel appearing on behalf of the respondent-State, on the other hand, would submit that the petitioners herein were the members of disciplined force and ought to have submitted their charter of demands through proper channel instead of taking out procession from Fatehabad to Chandigarh. It is on this account, the petitioners have been imposed punishment and rightly so.

I have heard learned counsel for the parties and have gone through the pleadings of the case.

There is no dispute to the fact that the petitioners herein participated in the *pad yatra* but the contention of the petitioners also cannot be ignored that their Association had sought permission from the competent authorities to do so. It would also be worthwhile to take note of the fact that the petitioners were not in uniform on the date when they took part in the procession and were admittedly on casual leave. They had applied for extension of their casual leave which was denied to them and thereafter they were held to be absent from duty. It is also not denied that no action has been taken against the other police personnel who took part in the said procession and were in uniform.

Taking an overall view of the entire matter, the punishment inflicted upon the petitioners is extremely harsh. The punishment of stoppage of five annual increments with permanent effect coupled with treating the period of out of service as non-payable, does not appear to be commensurate to the guilt of the petitioners and they deserve somewhat more leniency in the matter of punishment to be awarded.

Accordingly, the instant writ petition is allowed to the extent that order dated 04.10.2016 (Annexure P-3) passed by respondent No.2 is set aside so far as the quantum of punishment is concerned. The revision petition is remanded back to respondent No.2 for reconsideration and passing a fresh order thereon.

This order shall, however, not be taken as a precedent for any other case.

**06.04.2022**

sanjeev

**(JAISHREE THAKUR)  
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No