

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

106

**LPA-127-2020
Decided on :14.11.2022**

Atma Singh

... Appellant

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE G. S. SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

PRESENT: Ms. Himani, Advocate for
Mr. Chandan Singh Rana, Advocate
for the appellant.

G. S. SANDHAWALIA, J. (Oral)

The present Letter Patent Appeal is directed against the order dated 14.11.2019 of the learned Single Judge passed in CWP-26837-2019. The learned Single Judge dismissed the writ petition in limine which was directed against the orders passed by the disciplinary authority wherein punishment of forfeiture of 3 years of service had been imposed on account of the fact that there was absence of 67 days of the appellant who has been working as a constable.

It has been noticed that the appeal filed was declined by the appellate Authority on 23.04.2015 (Annexure P-4) and the revision petition was declined on 23.09.2015 (Annexure P-5) and a mercy petition was dismissed on 04.10.2018 (Annexure P-9). It was noticed that the mercy petition as such would not extend the period of delay and even otherwise the medical certificate relied upon were examined in great detail as to how the general physician had given the diagnose of Acute Gastro Enteritis and also diagnosed the Disc prolapse and fracture in right shoulder which was also for a calculated period and therefore writ petition has been dismissed.

We have also examined the paperbook and find that the absence is during the period of training the employee had been sent. Initially there was an absence from 06.08.2003 to 17.08.2003 for 10 days 21 hours and 30 minutes i.e. for total 11 days for which the certificate Annexure P-1 was furnished. Similarly, for the absence from 03.11.2003 to 29.12.2003 when again he was deputed to the ISTC course and had to report with the training center, he remained absent for 55 days 22 hours i.e. 56 days. The certificate of the fracture of right shoulder with Disc prolapse was without any supporting

evidence in the form of X-Ray, MRI Report or the fracture was treated before any Government hospital. The same would go on to show that the finding of the learned Single Judge are justified.

Even otherwise the department charge sheeted the appellant and an enquiry officer was appointed who conducted day to day proceedings and gave an adverse report as such and held him guilty of the charge. On the said basis, show cause notice was issued for forfeiture of 3 years service with permanent effect and no pay was given for said period of absence. A written reply was received and resultantly the order of punishment was passed on 09.09.2004.

No appeal was preferred and after a decade, the same was filed and accordingly the same was dismissed being time barred by 10 years by the Deputy Inspector General of Police on 23.04.2015 (Annexure P-4). The revision was accordingly dismissed by the Inspector General of Police on 23.09.2015 which was also time barred and the Director General also dismissed the appeal after giving personal hearing (Annexure P-7).

The mercy appeal preferred before the Additional Chief Secretary, Department of Home Affairs and Justice was dismissed on 17.10.2018 again after personal hearing and while noting that there are no new facts and circumstances. In the considered opinion of the Court, the issue had long died about a period of 10 years back and thereafter, continuation of filing various appeals and revision have been done before the appropriate authorities for long. The proper procedure has been followed by charge sheeting the appellant and after coming to the conclusion that misconduct of the appellant was made out and the appellant was not attending the courses followed by certificates which cannot be said to be genuine. After giving one considered opinion, we come to the conclusion that no case is made out.

Appeal is dismissed accordingly.

(G. S. SANDHAWALIA)
JUDGE

November 14, 2022
Mehak

(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No