

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

RSA-2113 of 1992(O&M)

Date of Order:05.10.2023

State of Haryana and others**.Appellants****Versus****Dhani Ram****..Respondent****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Mr. Jaspal Singh Pannu, AAG, Haryana.
Mr. Ajay Chauhan, Advocate
for the respondent.**

ANIL KSHETARPAL, J

1. This regular second appeal has been filed by the State of Haryana to challenge the correctness of the judgments passed by the trial Court as well as the First Appellate Court.

2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.

3. The respondent (plaintiff) was recruited as a Constable in September, 1977. On 12.03.1979, the police had to register a case against the respondent as certain accused escaped from his custody. He was immediately placed under suspension on the same day and an FIR was registered. Subsequently, on 13.03.1979, he was reinstated in service but thereafter, he was discharged from service on 26.03.1979, under Rule 12.21 of the Punjab Police Rules, 1934 (hereinafter referred to as 'the 1934 Rules'), as applicable to the State of Haryana. Thereafter, the plaintiff served notice to the competent authority under Section 80 of the Code of Civil Procedure, 1908 and filed the suit on 04.04.1985.

4. In the considered opinion of this Court, the following two questions arise for adjudication:-

- (i) Whether a simpliciter discharge of the police officials within a period of three years from the date of recruitment amounts to a punitive order requiring the holding of a regular departmental inquiry?
- (ii) Whether the suit filed by the plaintiff was within the period of limitation?

5. As regards the second question, the matter is already covered against the respondent (plaintiff) in view of the judgment passed by the Supreme Court in **State of Punjab and others vs. Gurdev Singh, (1991) 4 SCC 1** which was again reiterated in **State of Punjab and another vs. Balkaran Singh, (2006) 12 SCC 709**. In this case, admittedly the suit was filed after a period of more than six years from the date of discharge from the service.

6. In order to analyze Rule 12.21 of the 1934 Rules, it is appropriate to extract the same, which reads as under:-

“12.21-Discharge of inefficient:- A constable who is found unlikely to prove an efficient police officer may be discharged by the Superintendent at any time within three years of enrolment. There shall be no appeal against an order of discharge under this rule.”

7. This rule applies to the constables who are unlikely to prove efficient police officers at any time but within three years of enrollment. The period of three years is in the nature of a probationary period during which the employer is entitled to keep a close watch on the activities of the

employee particularly when the police force is not only expected to be the most disciplined force but it also deals with the grievances of the poor and downtrodden victims, who have suffered at the hands of the hardened criminals. In such circumstances, an official of the police force is expected to be not only brave but also impartial and strict to their duty.

8. In this case, admittedly, the order discharging the respondent is simpliciter order. Both the courts have taken into account the fact that there was FIR against the respondent on 12.03.1979, and he was subsequently discharged from service within a period of 14 days.

9. In this case the order of discharge has been passed when the appointing authority formed an opinion that the respondent shall not prove to be an efficient policeman.

10. The learned counsel representing the respondent submits that the order is punitive in nature and therefore, could not be passed without holding a regular departmental inquiry.

11. This court has considered the submission of the learned counsel representing the respondent and has already analyzed the aforesaid fact and found no substance therein.

12. Keeping in view the aforesaid facts and submissions, both the questions are answered in favour of the appellant-State. The appeal filed by the State is accepted on both the questions i.e. of limitation as well as merits.

13. All the pending miscellaneous applications, if any, are also disposed of.

October 05, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO