

119 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.6009 of 2023 (O&M)
Date of decision : 23.03.2023

Santokh Singh

..... Petitioner

versus

State of Punjab & ors.

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Deepak Arora, Advocate
for the petitioner.

PANKAJ JAIN, J. (ORAL)

Present writ petition has been filed impugning order dated 07.04.2008 (Annexure P-2) whereby the petitioner was ordered to be dismissed from services for having used fake educational certificate at the time of appointment.

The petitioner was appointed as Special Police Officer on 24.06.1992. On 02.06.2003, he was booked in FIR No.57 dated 02.06.2003 registered for offences punishable under Sections 420/465/466/468/471 by Police authorities Civil Line Batala. On 07.04.2008 he was ordered to be dismissed from the services and was convicted in the aforesaid FIR vide judgment dated 19.09.2011. In the appeal preferred by the petitioner, he stands acquitted by extending him benefit of doubt vide judgment dated 05.06.2014. As per the pleadings raised in the writ petition, after earning acquittal, the petitioner approached respondents for reinstatement in the year 2023 i.e. after 9 years.

Learned counsel for the petitioner submits that the authorities erred in denying the benefit of later part of Rule 16.2 of Punjab Police Rules, 1934, as the claim of the petitioner for pension ought to have been considered.

Having heard learned counsel for the petitioner and after going through records of the case, this Court finds that the claim of the petitioner apart from being barred by delay and laches, would be covered by ratio of law laid down by the Supreme Court in the case of ***State of Punjab Vs. Ram Singh Ex-Constable (1992) 4 SCC 54*** wherein the Apex Court held as under :-

“7. Rule 16.2(1) consists of two parts. The first part is referable to gravest acts of misconduct which entails awarding an order of dismissal. Undoubtedly there is distinction between gravest misconduct and grave misconduct. Before awarding an order of dismissal it shall be mandatory that dismissal order should be made only when there are gravest acts of misconduct, that too when it impinges the pensionary rights of the delinquent after putting long length of service. As stated the first part relates to gravest acts of misconduct. Under general clauses Act singular includes plural, act includes acts. The contention that there must be plurality of acts of misconduct to award dismissal is fastidious. The word "acts" would include singular "act" as well. It is not the repetition of the acts complained of but its quality, insidious effect and gravity of situation that ensues from the offending 'act'. The colour of the gravest act must be gathered from the surrounding or attending circumstances. Take for instance the delinquent that put in 29 years of continuous length of service and had unblemished record; in 30th year he commits defalcation of public money or fabricates false records to conceal misappropriation. He only committed once. Does it mean that he should not be inflicted with the punishment of dismissal but be allowed to continue in service for that year to enable him to get his full pension. The answer is obviously no. Therefore, a single act of corruption is sufficient to award an order of dismissal under the rule as gravest act of misconduct.

8. The second part of the rule connotes the cumulative effect of continued misconduct proving incorrigibility and complete unfitness of police service and that the length of service of the offender and his claim for pension should be taken into account in an appropriate case.

The contention that both parts must be read together appears to us to be illogical. Second part is referable to a misconduct of minor in character which does not by itself warrant an order of dismissal but due to continued acts of misconduct would have insidious cumulative effect on service morale may be a ground to take lenient view of giving an opportunity to reform. Despite giving such opportunities if the delinquent officer proved to be incorrigible and found completely unfit to remain in service then to maintain discipline in the service, instead of dismissing the delinquent officer, a lesser punishment of compulsory retirement or demotion to a lower grade or rank or removal from service without affecting his future chances of re-employment, if any, may meet the ends of justice. Take for instance the delinquent officer is habitually absent from duty when required. Despite giving an opportunity to reform himself he continues to remain absent from duty off and on. He proved himself to be incorrigible and thereby unfit to continue in service. Therefore taking into account his long length of service and his claim for pension he may be compulsorily retired from service so as to enable him to earn proportionate pension. The second part of the rule operates in that area. It may also be made clear that the very order of dismissal from service for gravest misconduct may entail forfeiture of all pensionary benefits. Therefore, the word "or" cannot be read as "and". It must be disjunctive and independent. The common link that connects both clauses is "the gravest act/acts of misconduct."

In view of the aforesaid, no ground to interfere in the present writ petition is made out and the same is ordered to be dismissed.

(PANKAJ JAIN)
JUDGE

23.03.2023
Pooja sharma-I

Whether speaking/reasoned	Yes
Whether Reportable :	No