

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

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LPA-451-2023 (O&M)
Decided on: 19.12.2023

Daljit Singh

... Appellant

Versus

Union of India and others

... Respondents

**CORAM: HON'BLE MS.JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE AMAN CHAUDHARY**

Present: Mr. Naresh Ojha, Advocate for the appellant

Mr. Indresh Goel, Sr. Panel Counsel for U.O.I.

AMAN CHAUDHARY, J.

1. Challenge in the present Letters Patent Appeal is to the order dated 08.05.2015 passed by the learned Single Judge, vide which the writ petition filed by the appellant was dismissed.

2. Learned counsel for the appellant would submit that the absence of his from duty was on account of his wife having suddenly fallen ill to tuberculosis, due to which he had lost his balance of mind, which has not been properly taken into consideration by the disciplinary authority while imposing the punishment of removal from service. The complaint is of non-affording the opportunity of being heard and thus violation of principle of natural justice, on the ground of which, the impugned orders are liable to be set aside and judgment of learned Single Judge for not accepting his pleas and even the one of awarding lesser punishment.

3. Learned counsel for the respondent however, submits that besides there being a huge delay, which is wanting of explanation, on the anvil of which this appeal should not be entertained, the appellant was also rightly removed from

service. The judgment of the learned Single Judge has taken into consideration all aspects of the matter while dismissing the writ petition.

4. Heard learned counsel on either side at some length.

5. We are unable to persuade ourselves to agree with the arguments canvassed on behalf of the appellant.

6. Indubitably, the appellant was part of the disciplined force having been appointed as Constable in Central Reserve Police Force in the year 2000, who absented from duty w.e.f. 14.03.2008, the date on which he was to join back after availing of his leave. The regular enquiry was initiated against him after his arrest on 29.09.2008. Besides the aforesaid, it had also weighed with the disciplinary authorities that even in the years 2006, 2007 and 2008, he was unauthorizedly absent for a period 63, 113 and 52 days respectively.

7. By far it is way too settled that writ jurisdiction in the matters of disciplinary proceedings having culminated in punishment, is rather limited as this Court is not expected to sit as an appellate authority on the action taken by the departmental authorities. It would be worthwhile to make a reference to the judgment in the case of **Anil Kumar Upadhyay vs. SSB**, 2022 SCC OnLine SC 478, where Hon'ble the Supreme Court observed and held that, "...The nature of misconduct which has been committed by the appellant stands proved and is unpardonable. Therefore, when the disciplinary authority considered it appropriate to punish him with the penalty of 'removal from service', which is confirmed by the appellate authority, thereafter it was not open for the learned Single Judge to interfere with the order of punishment imposed by the disciplinary authority."

8. Even insofar as the quantum of punishment is concerned, it can only be interfered in case it shocks the conscience of the Court being grossly disproportionate to the charges proved, which this case upon being considered by

the learned Single Judge, keeping in mind the misconduct alleged having been duly proved, did not appear to be, as was the case in **Union of India vs. Sunil Kumar**, (2023) 3 SCC 622, wherein the penalties imposed by the disciplinary authority for the misconduct of the respondent-employee were held to be justified by Hon'ble the Supreme Court, observing that, "...The misconduct of misbehaving with the superior/senior officer and of insubordination can be said to be a very serious misconduct and cannot be tolerated in a disciplined force like CRPF and therefore, as such the Division Bench of the High Court is not justified in observing that on the proved charges and misconduct penalty of dismissal can be said to be disproportionate." Further that, "...As per the settled position of law, even in a case where the punishment is found to be disproportionate to the misconduct committed and proved the matter is to be remitted to the disciplinary authority for imposing appropriate punishment/penalty which as such is the prerogative of the disciplinary authority..."

9. That apart, the appellant has been unable to cross the hurdle of the enormous delay of 2868 days in filing this appeal, by putting forth any cogent reasons to justify the same, though unhindered, we still have endeavoured to examine the matter, upon which no apparent error in the judgment of the learned Single Judge has been found, that may have prompted us to grant indulgence.

10. Sequentially, the present appeal is hereby dismissed.

11. Pending application(s), if any, shall be rendered as disposed of.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

19.12.2023
gsv/Mkamra

Whether speaking / reasoned: YES / NO

Whether Reportable: YES / NO