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

**CWP-21746-2016(O&M)
DECIDED ON: 16.12.2023**

BANWARI LAL**.....PETITIONER**

VERSUS

**HARYANA AGRO INDUSTRIES CORPORATION LTD. AND ANR.
.....RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sanchit Punia, Advocate for the petitioner.

Mr. Padamkant Dwivedi, Advocate for the respondents.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing of impugned order dated 30.07.2015 (Annexure P-6).
2. Learned counsel for the petitioner contends that the impugned order dated 30.07.2015 whereby the service of the petitioner has been dismissed w.e.f. 01.02.2008 on account of his remaining absent from duty w.e.f. 30.01.2008 to 29.07.2015 is illegal, non-speaking and arbitrary as no charge sheet as well as departmental enquiry has been conducted before dismissing the service of the petitioner. He further contends that the service of the petitioner has been terminated by invoking Clause 10-B of the Certified Standing Orders, which talks of a person voluntarily giving up his job in case he is not coming to work for a period of eight days or more. It is submitted that if it is taken that the

petitioner has voluntarily left the job, he would still be entitled to the benefits of service rendered by him prior thereto.

The dismissal from service could only be effected in case a regular inquiry had been held, which has not been done in the instant case.

3. He further contends that the impugned order is a clear example of double jeopardy wherein the petitioner has been dismissed from the services as well as his other retiral benefits have also been forfeited by the respondents.

4. On the other hand, learned counsel for the respondents submits that the order dated 30.07.2015 does not suffer from any infirmity and the petition is liable to be dismissed only on the ground that the petitioner has remained wilfully absent from the duty from 30.01.2008 and his service was dispensed only in the year 2015 and within that period of seven years he never came to report on his duty and has filed the petition only after his services were dismissed by the respondents.

5. Heard learned counsel for the parties at length.

6. This Court cannot lose sight of the fact that though the petitioner has a chequered history through his service span and has been chargesheeted on earlier number of occasions, however, this Court cannot shut its eyes to the fact that no regular enquiry was conducted before dismissing the services of the petitioner and the same is violative of Article 311(2) of Indian Constitution. Moreover, in the case of '*Dharminder Kumar vs. State of Punjab and others, 2005(2) SCT 422*', it has been concluded that the order of termination passed without complying the basis of natural justice is illegal and deserves to be quashed. Also, the respondents have failed to consider that the petitioner has served the department for the last 29 years and therefore, at least reasonable opportunity of hearing could have been provided to him to putforth his plea.

7. Further, reliance can be placed upon the law laid down in ‘*Ainul Hassan Khan vs. State of Jharkahnd and others, 2010(3) JCR 471*’ wherein it has been held that dismissal from service and forfeiture of retiral benefits at the same time is in shape of dual punishment and the same is against the general principle of law. Therefore, in view of the above, the impugned order dated 30.07.2015 (Annexure P-6) is quashed with the liberty to the respondents to initiate fresh action against the petitioner, after conducting a regular enquiry.
8. Petition stands disposed of accordingly.

16.12.2023
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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No