

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

108

LPA-987-2023(O&M)

Date of decision: 19.10.2023

Mamta

... Appellant

Versus

State of Haryana and Others

... Respondents

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

Present: Mr.JP Sharma, Advocate, for the appellant

Mr.Deepak Balyan, Additional Advocate General, Haryana

AMAN CHAUDHARY, J.

1. The present intra-court appeal, under Clause X of the Letters Patent, has been filed against the judgment dated 03.07.2023, vide which the civil writ petition preferred by the appellant was dismissed.

2. Learned counsel would contend that the appellant had after her joining sought grant of extra ordinary leave for two years but was sanctioned only for six months. She had to therefore again seek extension, which was also wrongly rejected. Thereafter, without properly conducting the disciplinary proceedings and granting opportunity of hearing, she was imposed a harsh punishment of dismissal from service.

3. Learned State counsel appeared on receipt of advance notice and submitted that the appellant was on probation and despite a specific direction to her for joining the duty, after her request was rejected, she failed to do so. There

was an intentional and wilful absence. The Department rightly passed the order of termination.

4. We have heard learned counsel on both sides.

5. The question of whether a lesser punishment was warranted at the hands of the appropriate authorities is before this Court.

6. It is trite that unless the punishment or penalty imposed by the disciplinary or the departmental appellate authority, is either impermissible or such that shocks the conscience of the Court, it ought not to be normally substituted by its own opinion for imposition of some other.

7. The power of judicial review of the disciplinary action against the delinquent employee, by this Court, is limited. The appellant in the present case, had rendered negligible service in the Department, it being little over 2 months, she having been appointed on 14.01.2019 to the post of Supervisor, when a long leave was sought w.e.f. 26.03.2019 to 25.03.2021, for which an indulgence was also granted by sanctioning a part of it but, on having requested for further extension, she was declined the same on 12.09.2019, asking her to report for duty. The appellant however, stubbornly did not rejoin, that led to initiation of disciplinary proceedings in the year 2020. Despite twice being called for personal hearing, she did not appear. Consequently, her services were terminated on 18.05.2021, against which, her appeal came to be dismissed on 09.03.2023. The order of punishment can be interfered with in case, it is found to be vitiated being in violation of the statutory rules or regulations or the principles of natural justice and the doctrine of proportionality and Wednesbury Rule can be invoked only if, the Court is convinced that the punishment imposed by the employer is per se arbitrary and capricious or wholly disproportionate to the proved misconduct.

8. In **Ranjit Thakur vs. Union of India**, 1987 AIR 2386, Hon'ble the Supreme Court observed that, "Judicial review generally speaking, is not directed

against a decision, but is directed against the “decision-making process”. The question of the choice and quantum of punishment is within the jurisdiction and discretion of the Court-martial. But the sentence has to suit the offence and the offender. It should not be vindictive or unduly harsh. It should not be so disproportionate to the offence as to shock the conscience and amount in itself to conclusive evidence of bias. The doctrine of proportionality, as part of the concept of judicial review, would ensure that even on an aspect which is, otherwise, within the exclusive province of the Court-martial, if the decision of the Court even as to sentence is an outrageous defiance of logic, then the sentence would not be immune from correction. Irrationality and perversity are recognized grounds of judicial review.”

9. The matter having been considered in the right perspective by the learned Single Judge requires no intervention. Resultantly, the present appeal being bereft of merits, is dismissed.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

19.10.2023
mkk

Whether speaking / reasoned: YES / NO

Whether Reportable: YES / NO