

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CWP-6078-2017 (O&M)
Date of Decision:- 18.7.2023

Victor Zoravar Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rakesh Sobti, Advocate for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

GURVINDER SINGH GILL, J.

1. The petitioner seeks quashing of order dated 19.1.2011 (Annexure P-6) vide which the petitioner has been dismissed from service w.e.f. 26.9.2010 and also order dated 12.10.2012 (Annexure P-13) passed by the Director General of Police vide which request of the petitioner for reinstatement has been declined as well as order dated 4.11.2016 (Annexure P-14) vide which the representation made by the petitioner against the aforesaid orders has been turned down.
2. The petitioner was appointed as Special Police Officer on daily wages vide appointment letter dated 20.8.1994 (Annexure P-1). He came to be involved in a criminal case arising out of FIR No. 576 dated 17.11.2006 registered at Police Station Phase-1, Mohali under Sections 294, 354, 509 IPC. However, the petitioner continued in service. Although, the petitioner's name was

recommended for appointment as Constable but was not appointed on account of registration of a criminal case i.e. FIR No. 576 dated 17.11.2006, Police Station Phase-1, Mohali, as would be evident from letter dated 13.7.2009 (Annexure P-3) sent by Commandant 13th Battalion, P.A.P., Chandigarh to the Senior Superintendent Police, Rupnagar. The relevant extract from the said letter dated 13.7.2009 (Annexure P-3) is reproduced herein-under :-

“3. The office of the Additional Director General of Police Armed Forces Btn. Jalandhar Cant vide Swingram No.5200/C.B.-P.C. dated 06.04.09 has informed that the name of S.P.O. Victor Zorawar Singh No. 647/Ropar has not been considered for merging him from S.P.O. to be designated as Constable due to registration of F.I.R. No. 576 dated 17.11.06 u/s 354, 294 IPC P.S. Phase-1 Mohali. Fauzi Misl of above said S.P.O. is sent to you office for necessary action and completion of record.”

3. Subsequently, a notice dated 3.1.2011 (Annexure P-5) was issued to the petitioner asking him to show cause as to why he should not be discharged from the job of S.P.O. on account of his continuous absence w.e.f. 26.9.2010. Pursuant to issuance of said notice, the Senior Superintendent of Police, Rupnagar passed order of dismissal on 19.1.2011 (Annexure P-6), which has been assailed by the petitioner in the present case.
4. The learned counsel for the petitioner submits that the sole reason assigned for not considering his case for appointment as a Constable on regular basis was pendency of a criminal case i.e. FIR No. 576 dated 17.11.2006, Police Station Phase-1, Mohali, as is evident on perusal of letter dated 13.7.2009 (Annexure P-3) and that since the petitioner, upon being tried by the learned Chief Judicial Magistrate, SAS Nagar was not found guilty and was acquitted

vide judgment dated 13.10.2011 (Annexure P-7), the said disability/disqualification no longer survived and as such, the petitioner was entitled to be absorbed as a Constable on regular basis.

5. The learned counsel for the petitioner further submitted that although in the dismissal order dated 19.1.2011 (Annexure P-6), the reason for his dismissal is recorded as his continuous absence w.e.f. 26.9.2010 but as a matter of fact the petitioner had applied for grant of leave which had been duly allowed as would be evident from noting on his application dated 20.8.2010 (Annexure P-4) and that as such, taking into account the period of leave of one month, the absence for remaining period would be of barely two months which cannot be said to be gross misconduct so as to justify discharge of the petitioner. The learned counsel for the petitioner further submitted that the petitioner otherwise has been in service for a long period of 16 years. The learned counsel placed reliance upon 1992(1) PLR 36 – The State of Punjab versus Parkash Chand wherein the orders of dismissal passed pursuant to holding of inquiries had been set aside.
6. This Court has considered the aforesaid submissions addressed before this Court.
7. It is not in dispute that the petitioner had been appointed initially on daily wages vide order dated 20.8.1994 (Annexure P-1) and continued in service and had never been regularized. It is also not in dispute that the case of the petitioner had been considered at one point of time for his appointment as Constable but it was on account of pendency of the criminal case that he was not extended any such benefit. Subsequently, the petitioner came to be dismissed vide impugned order dated 19.1.2011 (Annexure P-6) on account

of continuous absence of the petitioner w.e.f. 26.9.2010. Although, the learned counsel for the petitioner has referred to an application dated 20.8.2010 (Annexure P-4) but the State in its reply has denied having received any such application. A perusal of said application (Annexure P-4), shows that it was on 20.8.2010 that the application is stated to have been moved by the petitioner seeking leave for a period of one month but no specific period during which the said leave of one month is to be availed is mentioned therein. Although in the venacular (photocopy of the said application) one does find the word 'allowed' had been written underneath the said application but the State having denied the existence of any such application and the said application having been moved in the month of August, 2010 without any dates of leave having been specified therein, this Court is not inclined to rely upon the said leave application dated 20.8.2010 (Annexure P-4).

8. In any case, it was two months after the alleged acceptance of the said application on 24.8.2010 that the petitioner was found to be absent continuously i.e. w.e.f. 26.9.2010 and the said absence having remained unexplained, the Superintendent of Police was fully competent to dismiss the petitioner from service without assigning any detailed reason, particularly when the petitioner had never been regularized in service. As far as the judgment pressed into service on behalf of the petitioner i.e. Parkash Chand's case (supra) is concerned, the same pertained to a case where the petitioner was in regular service. It goes without saying that the procedure and the considerations for dismissing a regular Constable are entirely different from the considerations as regards discharge of a Constable who is not in regular service and that no detailed reasoning is required for

discharging a Constable, who is not absorbed in regular service. Nothing to the contrary could be shown to this Court.

8. The impugned order, as such, cannot be said to be suffering from any infirmity. The petition, as such, is found to be sans merit and is hereby dismissed.

18.7.2023

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No