

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

RSA No.5344 of 2018 (O&M)

Date of Order:15.09.2023

Ex. Constable Hardev Singh**.Appellant****Versus****The State of Punjab and others****..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL****Present: Mr. Puneet K. Sharma, Advocate
for the appellant.****Mr. Ajit Singh Natt, AAG, Punjab****ANIL KSHETARPAL, J**

1. This appeal has been filed along with an application for condonation of the delay of 616 days in filing the regular second appeal.

The aforesaid application shall be considered if found necessary.

2. The correctness of the concurrent findings of fact arrived at by the courts below is assailed in the regular second appeal by the plaintiff. The disciplinary authority held a departmental inquiry after giving an opportunity to the petitioner to represent, pursuant to a show cause notice which was sent along with the copy of the inquiry report. He was dismissed from service on account of the fact that the appellant remained absent for a period of 339 days 19 hours and 45 minutes and he habitually remained absent. The appellant was working as a constable in the Punjab Police which is a disciplinary force. However, the First Appellate Court in the penultimate paragraph held that the department shall consider the case of the appellant for grant of pensionary benefits to him.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

4. The learned counsel representing the appellant submits that both the courts have erred in dismissing his suit as the absence of the appellant was not intentional.

5. This court has considered the submissions of the learned counsel representing the appellant.

6. Though the plaintiff has claimed that he remained ill due to medical complications however, he failed to substantiate the same with cogent evidence. Moreover, both the courts on appreciation of evidence have recorded a concurrent findings of fact on appreciation of evidence. This court in exercise of powers under Section 41 of the Punjab Courts Act can interfere only if there is substantive error in non-reading or misreading of evidence which goes to the root of the case.

7. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

8. Dismissed.

9. All the pending miscellaneous applications, if any, are also disposed of.

September 15, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO