

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CWP-2416-1999 (O&M)
Date of Decision: 20.03.2024

Amarjit Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. K.S. Dadwal, Advocate and
Ms. Neha Jain, Advocate for the petitioner
Ms. Aman Dhir, Deputy Advocate General, Punjab

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of :-

- i. order dated 11.11.1995 (Annexure P-1) whereby disciplinary authority has dismissed him from service;
- ii. order dated 11.05.1996 (Annexure P-2) whereby appellate authority has dismissed his appeal;
- iii. order dated 22.11.1996 (Annexure P-3) whereby revisionary authority has dismissed his revision.

2. The petitioner was enrolled in Punjab Police as Constable. On 09.03.1994, he remained absent from duty. He rejoined duty on 29.04.1994.

The respondent conducted inquiry with respect to petitioner's absence from duty. On the basis of report of Inquiry Officer, the Disciplinary Authority vide impugned order dated 11.11.1995 (Annexure P-1) ordered to dismiss him from service. It is apt to mention here that respondent while passing said order noticed the fact that petitioner on the earlier occasions had remained absent from duty for 142 days. The petitioner was even absent at the time of passing impugned order dated 11.11.1995. He unsuccessfully preferred appeal before the Appellate Authority as well as Revisionary Authority.

3. Mr. K.S. Dadwal, Advocate submits that impugned order was passed in haste and in gross violation of principles of natural justice. During the inquiry, the petitioner was granted only 48 hours' time. The respondent without confronting, relied upon his past record.

4. *Per contra*, learned State counsel submits that the petitioner at the time of passing of impugned order had completed just 5 years' service. He was absent in 1994 as well as at the time of passing impugned order. He remained absent for 142 days during his short career of 5 years. The respondent is a disciplined Police Force where indiscipline on the part of officer(s) cannot be tolerated or condoned.

5. I have heard the arguments of learned counsels for both sides and perused the record with their able assistance.

6. The main plank of argument of the petitioner is that there was violation of principles of natural justice. The impugned order was passed in haste. It is settled proposition of law that authorities while passing even quasi-judicial order are bound to comply with principles of natural justice. There is

no hard and fast rule or straightjacket formula to determine compliance of principles of natural justice. The matter needs to be examined in the light of facts and circumstances of each case. The petitioner had preferred appeal as well as revision before higher authorities and those authorities have passed order after granting opportunity of hearing. Not only that, this Court has considered entire record and heard the petitioner at length. This Court does not find any illegality or irregularity in the impugned order qua violation of principles of natural justice.

7. The petitioner, at the time of passing impugned order, had just completed 5 years' service and during the said short period, he remained absent on couple of occasions. The inquiry was initiated on account of his absence from duty and he was absent even at the time of passing impugned order. Rule 16.2 of Punjab Police Rules, 1934 (for short '**1934 Rules**') provides that an officer may be dismissed from service for gravest act of misconduct or if disciplinary authority finds him incorrigible and unfit for the force. The disciplinary authority while passing order under said rule is required to consider length of service as well as entitlement of the employee to pension. The petitioner had completed just five years service, thus, he had not qualified for pension. The 5 years period is a very small period and during said period, he remained absent on multiple occasions. He was absent even at the time of passing of impugned order which indicates his act and conduct.

8. There is another nuance of the matter. The petitioner was dismissed from service in 1995 and as on day, a period of almost 25 years has passed away. It would not be in the interest of justice and fitness of things that

if he is reinstated at this belated stage especially when there was no lapse on the part of respondents.

9. In the wake of above discussion and findings, this Court is of the considered opinion that present petition being bereft of merit deserves to be dismissed and accordingly dismissed.

10. Pending applications(s), if any, also stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

20.03.2024
Mohit Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No