



RSA-1124 of 1994 (O & M)

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

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RSA-1124 of 1994 (O & M)
Date of decision: 20.05.2024

Navdeep Singh

...Appellant

Versus

The State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Ms. Hargun Sandhu, Advocate for
Mr. Rishab Tewari, Advocate, for the appellant.

Ms. Amrita Garg, AAG, Punjab.

SUVIR SEHGAL, J.

1. Plaintiff-appellant is in second appeal before this Court challenging the concurrent finding recorded by both the Courts below.

2. Plead case of the plaintiff-appellant is that he was enrolled as a Constable on 18.01.1982. In the year 1985, when he was posted in police lines, Gurdaspur, Harbans Singh, ASI, who had a grudge against his father, marked him absent for days together and managed to get a disciplinary proceedings initiated against him, which culminated in the dismissal order dated 17.06.1986, Ex.P-1. Plaintiff filed an appeal before the Deputy Inspector General, Jalandhar, which was rejected on 30.09.1986. He



remained unsuccessful even in the revision. Challenging the dismissal and subsequent orders, he filed a suit for declaration and also claimed consequential relief.

3. Upon being served, defendants contested the suit by filing a written statement, wherein it was submitted that the plaintiff has been dismissed under Rule 16.2 (1) of the Punjab Police Rule, 1934 (for short “the Rules) by following the procedure prescribed by law. Plaintiff filed a replication reasserting the claim. Issues were framed on the basis of the pleadings of the parties and after they led evidence and were heard, Trial Court by judgment and decree dated 25.07.1991 dismissed the suit. Plaintiff remained unsuccessful in the first appeal, which was rejected on 18.08.1993 resulting in the institution of the present appeal.

4. Counsel for the appellant has argued that the dismissal order is violative of Rule 16.2 (1) of the Rules and absence from service cannot qualify as gravest act of misconduct inviting the order of dismissal, which is harsh. He submits that due regard has not been given to the length of service of the appellant and his claim for pension.

5. On the other hand, State counsel while supporting the judgments and decrees passed by the Courts below, has contended that absence from duty by a police official is a gravest act of misconduct.

6. I have heard counsel for the parties and considered their respective submission as well as examined the record with their able assistance.

7. It is apposite to notice Rule 16.2 (1) of the Rules, which is reproduced hereunder:-



“16.2 Dismissal – (1) Dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect of continued misconduct proving incorrigibility and complete unfitness for police service. In making such an award regard shall be had to the length of service of the offender and his claim to pension.”

8. A perusal of the above reproduced provision shows that it provides for dismissal from service for gravest acts of misconduct or as a cumulative effect of continued misconduct proving incorrigibility and complete unfitness for police service. Under the former part of the provision, gravest acts of misconduct entail dismissal, whereas under its latter part, it is the cumulative effect of continued misconduct, which invites the punishment of dismissal. In both cases, incorrigibility of the delinquent official and complete unfitness for police service has to be established. Simultaneously, the punishing authority is required to take into consideration the length of service of the delinquent official as well as his claim to pension.

9. This Court has minutely examined the dismissal order dated 17.06.1986, Ex.P-1. Disciplinary proceedings were conducted against the plaintiff-appellant and he was held guilty of the charge of absenteeism. A show cause notice was issued to him and he submitted his reply. The explanation given in the reply was considered by the punishing authority point-wise and it was found unsatisfactory. Punishing authority went through the entire service record and noticed that the following punishments had been imposed upon him at an earlier point of time:



- (i) Service of one year was forfeited with temporary effect vide office order dated 22.10.1985 on the charge of misbehaviour with an ASI;
- (ii) Service of one year was again forfeited with temporary effect on 27.01.1986 on the charge of misbehaviour with the Mess Manager; and
- (iii) Plaintiff-appellant was arrested in the month of May, 1985 and sent to judicial lockup in a case under Section 109 Cr.P.C.

10. The punishing authority was of the opinion that the plaintiff-appellant is a habitual absentee and a quarrelsome person, who is incorrigible and he is not fit to be retained in police service. Noticing the absence of 79 days as well as the service record, he was dismissed from service.

11. It has been held by the Supreme Court in ***State of Punjab and others vs. Sukhwinder Singh (2007) 10 SCC 511*** as under:-

“6. That the order of dismissal did not use the “mantra” of “gravest act of misconduct” is not determinative. The substance of that conclusion is to be found in that order. When a policeman is repeatedly absent from duty, it cannot but be reasonably concluded that there is incorrigibility in his continued misconduct.”

12. In ***State of UP and others vs. Ashok Kumar Singh and another, (1996) 1 SCC 302***, Supreme Court has held that absence from duty by a police official on several occasions, amounts to gravest misconduct and the punishment imposed by the disciplinary authority cannot be interfered

with by the Courts.

13. A Division Bench of this Court in *State of Haryana vs. Gurdev Singh, 1981 (3) SLR 130*, observed that the punishment imposed on the police officials on account of misconduct while on duty is not to be lightly interfered with by the Courts.

14. In RSA-2732 of 1997 titled as *State of Punjab and others vs. Chamkaur Singh*, decided on 11.02.2015, this Court has held that absence from duty by a member of a disciplined force, without prior information, shows indiscipline.

15. Coming to the next argument of the counsel for the appellant, it deserves to be noticed that the plaintiff had put in a mere four years of service and has been inflicted with various punishments. Even if the length of service of the plaintiff had been examined by the punishing authority, it would have been an exercise in futility as the plaintiff-appellant had less than ten years’ service and was neither eligible nor entitled to claim pension. The act of absence from duty by a member of disciplined force is nothing but gravest act of misconduct. This Court, therefore, does not find any ground to disagree with the findings recorded by both the Courts below, which are affirmed.

16. For the reasons assigned hereinabove, the appeal is devoid of merit and is hereby dismissed.

17. Pending application(s), if any, is disposed of.

20.05.2024

(SUVIR SEHGAL)

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JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No