



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(203)

CWP-7190-2000 (O&M)
Date of Decision : 16.09.2024

Gurshinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. T.P.S. Tung, Advocate for the petitioner.

Mr. T.P.S. Chawla, Senior Deputy Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

1.

In the present petition, the challenge is to the order dated 02.02.1998 (Annexure P-1) by which services of the petitioner were terminated on the ground of absence from duty.
2.

While issuing notice of motion on 01.06.2000, the following order was passed :-

“Learned counsel for the petitioner states that the challenge to the impugned order of termination (Annexure P1) is confined only on the limited question of quantum of punishment.

Notice of motion (only qua the quantum of punishment awarded in the impugned order) fixing 14.9.2K.”
3.

A bare perusal of the above order would show that the only question which needs to be adjudicated in the present petition is whether, the punishment given to the petitioner is disproportionate to the charges alleged or not.
4.

Learned counsel for the petitioner submits that the petitioner



went to America after getting leave sanctioned vide order dated 26.06.1990. Later he applied for extension of leave which application was rejected and ultimately, the disciplinary proceedings were initiated. The prayer of the petitioner is that keeping in view the fact that the petitioner had worked for sufficiently long time, appropriate punishment should have been imposed upon the petitioner.

5. Learned counsel for the respondents, on the other hand, submits that the petitioner joined the service in the year 1983 and he went to America on Ex-India Leave on the pretext that his daughter is not well in the year 1990 and thereafter, even after the expiry of leave, the petitioner never joined back the service and ultimately, after holding the enquiry into the allegations, the petitioner's services were terminated, which order is valid and should be maintained.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. The absence from duty in the present case is not disputed. Once, the absence of the petitioner from his duty is not disputed and it has also come on record that the said absence was unauthorized as, there was no leave sanctioned in favour of the petitioner by the respondents and the petitioner remained abroad, there was no other option left with respondents but to terminate the services of the petitioner.

8. The plea of the petitioner that some other mild punishment should have been imposed, cannot be taken into account as the petitioner only had 07 years of service to his credit when he went abroad. It is not a case of the petitioner that he was entitled for pensionary benefits and had



pensionable qualifying service to his credit when he went abroad. Once the petitioner has remained in service for less than 10 years, the petitioner could not have been prematurely retired as the same was not possible.

9. Further, voluntary absence without there being any sanction of leave is to be treated as grave misconduct. An employee who remains absent without any valid justification and without sanction of leave, cannot demand that he should be let off leniently. It will set a bad precedent for the others. As per the judgment of the Hon'ble Supreme Court of India passed in Civil Appeal No. 219 of 2023 titled as ***Union of India and others Vs. Const. Sunil Kumar***, decided on 19.01.2023, the Court can only interfere qua the modification of the punishment in case, the punishment is shockingly disproportionate to the charges alleged and proved.

10. In the present case, the punishment of termination of service cannot be treated as shockingly disproportionate to the charges alleged and proved as the petitioner remained absent for a period of more than 04 years before his services were terminated.

11. Keeping in view the above, no ground is made out for any interference qua the quantum of punishment.

12. Dismissed.

12. Pending miscellaneous application, if any, also stands disposed of.

September 16, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No