

Neutral Citation No. 2024:PHHC:051900

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
221

RSA-3079-1994 (O&M)
Date of Decision:18.04.2024

The Haryana State through Collector, Karnal
.... Appellant

Vs

Sant Lal
..... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Sharad Aggarwal, DAG, Haryana
for the appellant.

Mr. Ranjit Saini, Advocate for the respondent.

SUVIR SEHGAL, J. (ORAL)

1. Defendant-appellant is in second appeal challenging the concurrent finding of fact recorded by both the courts below.
2. Pleaded case of plaintiff-respondent, Sant Lal, who was working as a Constable is that while he was placed under suspension, he went on leave for 10 days on 06.04.1984 but reported back on 08.05.1984. He again proceeded on leave on 08.05.1984 and reported back on 11.06.1984. For remaining absent from duty, he was proceeded against departmentally and a chargesheet was served upon him. On the basis of the inquiry report, vide order dated 12.09.1985, punishment of stoppage of 10 increments with cumulative effect was imposed. Appeal preferred by him was dismissed on 06.10.1986. Challenging both the orders, he filed a suit for declaration.

3. Upon notice, suit was contested on merits. Plaintiff filed a replication reasserting the stand taken in the plaint. Issues were framed and after the parties led evidence, trial court by judgment dated 30.10.1991 decreed the suit. Defendant remained unsuccessful in the first appeal, which was declined on 20.07.1994. Challenging both the judgments, the defendant-appellant is in second appeal before this Court.

4. I have heard counsel for the parties and have considered their respective submissions besides examining the record with their able assistance.

5. The sole question to be determined is as to whether a police official, who is under suspension, can be asked to attend the roll call and to remain present in office? This issue is no longer *res integra* and has been answered by the Supreme Court in ***State of Punjab Versus Dharam Singh***, 1997 (2) SCC 550. After noticing Rule 16.21 of the Punjab Police Rules, 1934 which govern the service of the plaintiff-respondent, Apex Court has held that even during the period of suspension, a police officer is required to attend roll-call and be available to the authorities. The Supreme Court has held that even in case, subsistence allowance is not paid, it does not entitle him to remain absent from duty.

6. A Division Bench of this Court in ***State of Punjab versus Constable Daljit Singh***, 1998(2) SCT 29 has held that a Constable is required to remain present in the lines during suspension and has to attend the roll-call as also perform the duties as may be assigned to

him. It has been clarified that in case a Constable does not abide by the discipline of the force as contemplated under Rule 16.21, *ibid*, he is liable to be treated as absent from duty.

7. Reliance placed by the First Appellate Court upon *Ex.Head Constable Munshi Ram Versus State of Haryana and others*, 1991(6) SLR 296, is misplaced. It has been held by a Division Bench of this Court in *Ex-Constable Jagan Singh Versus Director General of Police, Haryana etc.*, 2009(1) SCT 458 that *Munshi Ram’s* case cannot hold the field in view of the judgment of the Supreme Court in *Dharam Singh’s* case (*supra*). It is therefore, evident from the above that the judgments and decrees passed by the courts below, are contrary to the settled position of law.

8. For the foregoing reasons, appeal is allowed. Judgments and decrees passed by both the courts below are set aside and the suit filed by the plaintiff-respondent is dismissed through out with no order as to costs.

18.04.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No