

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

LPA-1747-2015 (O&M) in  
CWP-23255-2015 (O&M)  
*Date of Decision:18.04.2024*

*JATINDER SINGH, EX.CONSTABLE, NO.3/319, IRB* .....Appellant

V/s.

*STATE OF PUNJAB AND OTHERS* .....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA.  
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA.

Present Mr.Amit Dhawan, Advocate for the appellant.

Mr. Arjun Sheoran, DAG, Punjab.

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SANJEEV PRAKASH SHARMA, J. (Oral)

1. The appellant has preferred this Appeal against the order dated 02.11.2015 passed by the learned Single Bench of this Court in CWP-23255-2015.

2. The brief facts of this case are that the appellant has preferred a Writ Petition CWP-23255-2015 challenging the order of punishment of dismissal from service awarded by the Commandant, 3<sup>rd</sup> Indian Reserve Batallion, Ludhiana vide order dated 05.06.2006 whereby the period of absence w.e.f. 21.09.2004 to 21.04.2005 was treated as leave without pay. The said order was upheld in Appeal filed before the Deputy Inspector General of Police, Administration Indian Reserve Batallions, Patiala on 29.01.2007 and hence, the appellate order has been challenged by the appellant before this Court.

3. The Writ Petition preferred by the appellant was dismissed by the Single Bench of this Court on 02.11.2015 and therefore, the present LPA.

4. Learned counsel for the appellant submits that the punishment awarded to the appellant is too harsh and the same should be reduced and he should not be denied his service rendered with the respondents. He submits that there is a provision under Rule 9.18 of the Punjab Police Rules, 1934 (Volume-1) "*to compulsorily retire and grant retiring pension on completion of 10 years qualifying service.*"

5. Learned counsel for the appellant further submits that the appellant ought not have been dismissed as the punishment order has been passed *ex-parte* and the appellant could not defend himself before the Enquiry Officer since he was suffering from tuberculosis and the documents in this regard are placed on record before this Court.

6. Learned counsel for the appellant submits that the appellant's parents had expired within a period of six months. He also submits that he had also filed a Mercy Petition wherein he pointed out that he had rendered more than 15 years of service in the rank of Constable and Head Constable. This Court, vide order dated 16.01.2017, has directed the appellant to file an affidavit to the effect that he will not claim arrears of pay if the punishment of dismissal is reduced to that of compulsory retirement. An affidavit thereto has been filed by the appellant on 16.05.2017.

7. The State authorities have, thereafter filed their reply to the affidavit and submitted that the appellant is not eligible for grant of pension as his total service is of 16 years. It is also stated that the service record of the

applicant is very poor and despite several opportunities granted to him, he has not been proved to be a disciplined Policeman. The appellant presented himself on duty on 21.04.2005 after remaining absent for 212 days and again, he absented from duty w.e.f. 02.05.2005 till the date of his dismissal. The appellant is a habitual absconder and has remained absent, for which three departmental enquiries are still pending there against him. It is stated that if the punishment as awarded to him is modified as good, it would set a wrong example and further it is stated that he has been absent from duty for a total period of 543 days. It is further submitted that out of total service of 16 years of the appellant, 10 years' approved service stands permanently forfeited on account of his absence. It is further stated that he was also awarded punishment of censure 10 times. The appellant, who had been promoted as Head Constable, was also reverted to the post of Constable on account of submitting a false medical certificate to the departmental Enquiry Officer. In view thereof, learned State counsel submits that no leniency should be extended to the appellant.

8. We have considered the submissions of learned counsel for both the parties and perused the available record.

9. We find that so far as the departmental enquiry is concerned, there is no illegality committed by the Enquiry Officer who had given several opportunities to the appellant to submit his reply, but he has deliberately remained away from the departmental proceedings and has chosen not to submit any defence. A copy of the enquiry report was made available to the appellant and no objections were filed to the same also. Based on the enquiry

report submitted by the Enquiry Officer, the disciplinary authority has passed the order dismissing him from service. Thus, the provisions of Rules and the principles of natural justice have been followed while conducting the enquiry against the appellant.

10. So far as the submission of learned counsel for the appellant of the punishment awarded to the appellant being harsh is concerned, we find that although the punishment of dismissal from service awarded to the appellant is one of the major punishments, which can be awarded to a delinquent in departmental proceedings, however, from the facts of the present case, we find that the appellant was in the police force and it is expected from a “man in uniform” to maintain discipline and attend to his duties. Shirking away from his duties and remaining absent for days together, which in this case is more than a year, we find that even on having been joined after remaining absent for 212 days, the appellant again absconded and remained absent from duty w.e.f. 02.05.2005.

11. Thus, this Court is satisfied that the respondents have taken the decision after examining all the aspects and the same does not warrant any interference. It is not a case where the conscience of the Court can be said to have been touched by the facts of the case. Further, we find that even out of 16 years of service of the appellant, 10 years’ service already stood permanently forfeited.

12. Without adverting further on facts, we find no case for interference of this Court in this Appeal. Accordingly, this Appeal stands **dismissed**.

13. All pending application(s) stand disposed of accordingly.

[SANJEEV PRAKASH SHARMA]  
JUDGE

April 18, 2024  
Ess Kay

[SUDEEPTI SHARMA]  
JUDGE

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|-----------------------------|---|-----|---|----|
| Whether speaking / reasoned | : | Yes | / | No |
| Whether Reportable          | : | Yes | / | No |