



CWP-9991-2000

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

CWP-9991-2000**Date of Decision:08.04.2025****RAJ KAMAL EX CONST NO. 93/NNL**

..... Petitioner

*Versus***STATE OF HARYANA & ORS**

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. S.K. Yadav, Advocate for the petitioner.

Mr. Raman Sharma, Addl. AG, Haryana.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226 & 227 of the Constitution of India is seeking setting aside of order dated 13.10.1999 (Annexure P-2) whereby respondent has rejected his claim for pension.

2. The petitioner joined Haryana Police Force on 30.05.1984 as Constable. He came to be dismissed from service w.e.f. 20.01.1994 on account of absence from duty. He preferred appeal which came to be dismissed. He preferred Civil Writ Petition No.2380 of 1999 before this Court which was adjudicated vide order dated 29.07.1999. By said order, order whereby petitioner was dismissed from service, was set aside and punishing authority was directed to re-consider claim of petitioner with regard to his length of service and claim for pension. The respondent has passed impugned order dated 13.10.1999 whereby his claim for pension has been rejected on the ground that his qualifying service comes to less than 10 years whereas an employee is entitled to pension on completing



20 years service.

3. Mr. S.K. Yadav, Advocate for the petitioner submits that Division Bench of this Court vide order dated 29.07.1999 set aside orders whereby petitioner was dismissed from service, thus, he was deemed to be reinstated from the date of his dismissal from service. The date of dismissal from service was 20.01.1994 and Division Bench of this Court passed order on 29.07.1999. In view of orders of this Court, the petitioner stood reinstated from 20.01.1994 and his subsequent date of dismissal from service was 13.10.1999. Period of January' 1994 to October' 1999 should be included in his length of service. If the said period is considered, his length of service comes to more than 10 years and he becomes eligible for proportionate pension.

4. *Per contra*, Mr. Raman Sharma, Addl. AG, Haryana submits that this Court by order dated 29.07.1999 set aside order of dismissal from service, however, punishing authority was directed to consider petitioner's claim with regard to his length of service and pension. The said order came to be passed because petitioner made a statement before this Court that he has already completed more than 10 years service. There was no order of his reinstatement, thus, period from 1994 to 1999 cannot be counted for qualifying service.

5. I have heard the arguments of learned counsel for the parties and perused the record with their able assistance.

6. The petitioner was concededly dismissed from service on 20.01.1994. Question of dismissal of his service came up for consideration before Division Bench of this Court which vide order dated 29.07.1999 disposed of his petition. Order dated 29.07.1999 being short



order is reproduced as below:

“We have considered the arguments of the learned counsel and find that the first three arguments have no merit. It is clear from the record as also from the written statement that the petitioner had been served personally before the enquiry had been initiated. We have also examined the order of the appellate authority and find that adequate reasons have been given therefor. It is true that at one stage, absence from duty without leave was not regarded as amounting to the gravest act of misconduct, which necessitated dismissal of an employee from service but this view no longer is valid on account of a large number of judgments that have now been rendered. We are, however, of the opinion that the Punishing Authority has not taken into account the petitioner's length of service and his claim to pension while ordering his dismissal. The provisions of this part of Rule 16.2 appear to have been ignored. We, therefore, allow this writ petition quash the orders Annexure P-1, P-2 and P-4 and direct that the petitioner will appear before the Punishing authority who will re-appraise the petitioner's case with regard to his length of service and claim to pension only and make, such order as may be appropriate. The petitioner shall appear before the Superintendent of Police, Mohindergarh at Narnaul, on 13th October, 1999 with a certified copy of this order so that necessary steps can be taken in the matter. No costs. Dasti order.”

7. From the perusal of above quoted order, it is evident that petitioner made statement before this Court that he has already served for more than 10 years. The said fact was incorrect because on the date of his dismissal from service he had not completed 10 years service. This Court no doubt set aside order whereby he was dismissed from service, however, punishing authority was directed to re-appraise petitioner's case with regard to his length of service and claim to pension and make such order as may be appropriate.

8. This Court noticed that absence from duty is also gravest act



of misconduct in view of large number of judgments, however, length of service and claim of pension need to be examined. The respondent by impugned order has re-examined claim of petitioner *qua* length of service and pension. The respondent has concluded that till the date of his dismissal from service he has not completed 10 years service. The petitioner has formed an opinion that 5 years period i.e. period from the date of his suspension to date of fresh order should be included in his length of service. Division Bench by aforesaid order has directed the respondent to consider case of petitioner with regard to his length of service and claim of pension. The Court has not ordered to reinstate him though impugned orders were set aside. The intent of said order was clear. As per Rule 16.2 of Punjab Police Rules, 1934 (as applicable to State of Haryana), the punishing authority while passing order of dismissal from service is required to consider length of service and claim of pension. The direction of this Court was confined to consider length of service and claim of pension. The said order did not entail reinstatement of petitioner till the date of passing fresh order. There was no question of including period from 1994 to 1999 in his length of service. The direction of this Court related back to date of initial order because it was passed without considering length of service and claim of pension.

9. In the wake of above discussion and findings, no ground is made out to interfere with the impugned order.

10. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

08.04.2025

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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No