



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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LPA No.893-2020 (O&M)

Date of decision: 13.08.2025

State of Haryana and Ors.

.....Appellants

Versus

Ishwar Singh

.....Respondent

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. Pankaj Mulwani, Addl.AG, Haryana.

Mr. R.K. Arora, Advocate for the respondent.

ASHWANI KUMAR MISHRA, J (ORAL)

This appeal is by the State challenging the order dated 29.05.2020 passed by the learned Single Judge, whereby a direction has been issued to release the arrears of salary to the respondent-petitioner for the period 07.04.2001 to 07.04.2014.

Admitted facts of the case are that the respondent-petitioner was appointed on 18.11.1987 as an ad hoc Clerk in the prison Department of State, and



his services were regularized w.e.f 01.01.1991. With effect from 01.07.2001, respondent absented himself from duty, and, according to him, when he returned to join on 04.07.2001, he was not permitted to do so. Respondent did nothing thereafter, inasmuch no grievance in that regard was raised. The only explanation put-forth by the respondent for his absence is that two letters were sent through UPC Mode on 26.07.2001 and 06.09.2001 which were not responded so. The employer noticing the unauthorized absence of the respondent placed him under suspension on 25.02.2002. Charges levelled against the respondent were for unauthorized absence from duty constituting gross negligence towards his responsibility. Charge sheet was served under Rule 7 of Haryana Civil Service (Punishment and Appeal) Rules, 1987. In the inquiry proceedings, the respondent did not participate. The inquiry officer consequently proceeded ex parte against him culminating in an order of dismissal from service passed on 11.09.2003. The order of dismissal was not challenged for almost four years, whereafter an appeal came to be filed in the year 2007 which was dismissed on 12.10.2007. A memorial thereafter was submitted before the Director General of Prisons, which too met with the same fate. It is thereafter that Memorial has been presented to the Governor of the State of Haryana wherein an order dated 04.07.2014 was passed holding the absence from duty to be explained on account of alleged despatch of two letters under posting Certificate. Since absence from duty was held only for two days, the Addl. Chief Secretary of the concerned Department set aside the order of punishment passed against the respondent and reinstated him in service. Continuity of services was granted to the respondent. However, payment of salary for the period of absence was denied. Aggrieved by the denial of arrears of salary for the period in question, the respondent filed writ petition before the learned Single Judge, which is allowed by the learned Single Judge. Learned Single Judge has relied upon the order passed by the Governor dated 04.07.2014 to hold that



once the State has come to the conclusion that the absence on part of the respondent was only for two days, and he was unauthorizedly not permitted to resume work, as such denial of salary for the period 07.04.2001 to 07.04.2014 would be arbitrary. Aggrieved by this determination of learned Single Judge, State has preferred the instant appeal.

Learned State counsel submits that this was not a case of unauthorized absence of two days inasmuch as in the event the respondent was not permitted to join on 04.07.2001, it was expected that some protest or representation would be made to the competent Authority. In the event such grievance was not redressed, the remedy available to the respondent was to have approached the courts of law. The very fact that he did nothing of this kind shows that it was a case of unauthorized absence for years together and allowing the claim of back wages for nearly 13 years is wholly uncalled for. It is also argued that the Governor has already granted relief of reinstatement along with continuity of service and no further relief over and above it was liable to be extended to the respondent.

Learned counsel for the respondent-petitioner submits that the order dated 04.07.2014 has attained finality and therefore conclusion and the finding contained therein cannot be assailed now by the State. Learned counsel further submits that under the rules once the absence of duty has been found to be sufficiently explained, the denial of salary would be improper inasmuch as the State has to be treated at fault when it has not extended the benefit of salary for the period in question.

We have heard learned counsel for the parties and perused the material on record.

It is undisputed that though the respondent had availed two days leave but the plea that he was not permitted to resume work has not surfaced till



making of the representation in the year 2014. The alleged letters dated 26.07.2001 and 06.09.2001 are shown to have been sent under postal Certificate. Not much importance can be attached to the communication sent by the UPC mode inasmuch as the law does not recognize such service of letters to be sufficient when it is sent by UPC mode. These two letters admittedly were not sent through registered post. The employer in the reply before the Governor has clearly stated that no such letter was ever found to have been received in the office of the employer. Even otherwise, there is no explanation put-forth by the respondent as to why he never appeared during disciplinary inquiry proceedings or challenged the dismissal order for years together. There is no satisfaction recorded in the order dated 04.07.2014 that the Disciplinary Inquiry was vitiated or proper opportunity was denied to the respondent.

We may also take judicial notice of the fact that though the respondent claims that he was not permitted to join on 04.07.2001 but for almost 12 years he never raised any claim in that regard. The fact that he never approached any judicial Forum for enforcing his right of reinstatement or for proper orders for allowing him to join in the year 2001 and onwards clearly shows that the respondent was not entirely free from blame. Respondent otherwise has not worked for the period for which salary has now been ordered to be paid under the orders of learned Single Judge. Though order of the Governor dated 04.07.2014 is not under challenge and therefore the benefits extended therein cannot be curtailed but in the peculiar facts and circumstances of the present case, we are of the view that no further relief over and above granted vide order dated 04.07.2014 was liable to be extended to the respondent. With utmost respect to the learned Single Judge, we find that the facts of the case have not been examined by the learned Single Judge in the correct perspective. So far as the judgments relied upon by the learned Single Judge is concerned, the same are decisions of



the courts in the facts of its own case and do not lay down any principles of law which may entitle the petitioner to the relief, as prayed. Peculiar facts of the instant case clearly shows that the respondent has not been able to establish that he was entitled to payment of salary for the period during which he admittedly has not worked. In that view of the matter, this appeal succeeds and the same is allowed. Order dated 29.05.2020 passed by learned Single Judge is set aside and writ petition is accordingly dismissed.

(ASHWANI KUMAR MISHRA)
JUDGE

13.08.2025
manoj

(ROHIT KAPOOR)
JUDGE

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