



CWP-17249-2000 (O&M)

1

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

(203)

CWP-17249-2000 (O&M)

Date of Decision : July 04, 2025

Rajbir Singh

.. Petitioner

Versus

**The Industrial Tribunal-cum-Labour Court, Rohtak through its
Presiding Officer and another**

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Kartar Singh Malik, Advocate, for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the Award dated 18.02.2000 (Annexure P-8) by which, the termination of the services of the petitioner on the ground of unauthorized absence was held to be valid and the claim raised by the petitioner has been rejected.

2. Learned counsel for the petitioner argues that the petitioner was working as Driver with respondent-Department and his unauthorized absence was only for a period of 15 days yet, the extreme punishment of dismissal from service has been awarded which is arbitrary and illegal and the punishment imposed is totally disproportionate to the charges alleged hence, the Labour Court should have interfered keeping in view the jurisdiction so as to modify the punishment imposed upon the petitioner.



3. Learned counsel for the respondents submits that the argument being raised by the learned counsel for the petitioner that the punishment of dismissal imposed is disproportionate to the charges alleged and proved as the petitioner was unauthorizedly absent only for a period of 15 days, is incorrect as even in the impugned Award while deciding issue No.1 in paragraph 8, the details of the absence of the petitioner has been given, which clearly shows that he remained absent for substantial period and is habitual absentee hence, the order passed dismissing the petitioner from service is perfectly valid and legal.

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

5. The issue raised before this Court is whether the punishment imposed is disproportionate to the charges alleged and proved or not.

6. The only argument raised by the petitioner is that there was only an unauthorized absence for a period of 15 days which was ultimately decided by imposing a punishment of dismissal. It may be noticed that the conduct of the petitioner is to be seen as to whether, 15 days unauthorized absence was the only absence attributed to him or he was absent on earlier occasion as well so as to be treated as a habitual absentee or not. The details given in paragraph 8 of the impugned Award clearly go to show that the petitioner was discharging the duties as and when he deemed fit. Specific findings have been recorded that the petitioner remained absent for a period of 09 months and 11 days from January 1985 to October 1985. Prior to this, the petitioner also remained absent for which, ultimately a charge sheet was served upon him. It is not a case of one incident of



unauthorized absence for a period of 15 days but the charge-sheet was of a communicative absence attributed to the petitioner which was taken into account while deciding the punishment.

7. Further, as per the settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.219 of 2023 titled as Union of India and others vs. Const. Sunil Kumar, decided on 19.01.2023***, the punishment imposed should not be merely disproportionate but should be shockingly disproportionate so as to invite any interference by this Court in the punishment order so as to modify the same. The relevant paragraph of the said judgment is as under:

“ 6.2 Even otherwise, the Division Bench of the High Court has materially erred in interfering with the order of penalty of dismissal passed on proved charges and misconduct of indiscipline and insubordination and giving threats to the superior of dire consequences on the ground that the same is disproportionate to the gravity of the wrong. In the case of Surinder Kumar (supra) while considering the power of judicial review of the High Court in interfering with the punishment of dismissal, it is observed and held by this Court after considering the earlier decision in the case of [Union of India Vs. R.K. Sharma](#); (2001) 9 SCC 592 that in exercise of powers of judicial review interfering with the punishment of dismissal on the ground that it was disproportionate, the punishment should not be merely disproportionate but should be strikingly disproportionate. As observed and held that only in an extreme case, where on the face of it there is perversity or irrationality, there can be judicial review under [Article 226](#) or [227](#) or under [Article 32](#) of the Constitution.

6.3 Applying the law [laid down by](#) this Court in the aforesaid decision(s) to the facts of the case on hand, it cannot be said



that the punishment of dismissal can be said to be strikingly disproportionate warranting the interference of the High Court in exercise of powers under [Article 226](#) of the Constitution of India. In the facts and circumstances of the case and on the charges and misconduct of indiscipline and insubordination proved, the CRPF being a disciplined force, the order of penalty of dismissal was justified and it cannot be said to be disproportionate and/or strikingly disproportionate to the gravity of the wrong. Under the circumstances also, the Division Bench of the High Court has committed a very serious error in interfering with the order of penalty of dismissal imposed and ordering reinstatement of the respondent.

6.4 At this stage, it is required to be observed that even while holding that the punishment/penalty of dismissal disproportionate to the gravity of the wrong, thereafter, no further punishment/penalty is imposed by the Division Bench of the High Court except denial of back wages. As per the settled position of law, even in a case where the punishment is found to be disproportionate to the misconduct committed and proved the matter is to be remitted to the disciplinary authority for imposing appropriate punishment/penalty which as such is the prerogative of the disciplinary authority. On this ground also, the impugned judgment and order passed by the Division Bench of the High Court is unsustainable.”

8. In the present case, the details which have been reproduced in paragraph 8 of the Award showing the unauthorized absence of the petitioner go to show that he was a habitual absentee hence, the contention of the learned counsel for the petitioner that the petitioner was only absent for a period of 15 days which did not warrant the punishment of dismissal, is incorrect and same cannot be accepted. The Court can only interfere in



CWP-17249-2000 (O&M)

5

case it is proved that the finding recorded by the Labour Court are perverse to the evidence or the facts on record or the settled principle of law.

9. Learned counsel for the petitioner has not been able to point out any perversity in the Award passed by the Labour Court.

10. Keeping in view the above, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

11. Accordingly, the writ petition is dismissed.

12. Civil miscellaneous application pending if any, also stands disposed of.

July 04, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No