



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

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**CWP-5993-2002**

**Date of decision: 02.05.2025**

**BIRJINDER SINGH (SINCE DECEASED) THROUGH HIS LRS**

.....Petitioners

**VERSUS**

**STATE OF HARYANA AND OTHERS**

.....Respondents

**CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

**\*\*\*\*\***

Present: - Mr. Rakesh Nagpal, Advocate  
for the petitioner.

Ms. Dimple Jain, DAG, Haryana.

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**VINOD S. BHARDWAJ, J. (Oral)**

Challenge in the present writ petition is to the order dated 14.01.2002 (wrongly mentioned as 24.01.2002 in prayer clause) passed by the Financial Commissioner-cum-Secretary to the Government of Haryana in the Department of Agriculture whereby the order of termination of petitioner dated 18.03.1999 has been affirmed. Prayer for reinstatement of the petitioner on the post of Agriculture Inspector has also been made.

2. Learned Counsel contends that the petitioner was appointed as an Agriculture Sub Inspector with the respondent-Department on 23.04.1973. The said post was later re-designated as Agriculture Inspector. He contends that the petitioner went on a sanctioned leave from 19.08.1982 to 30.08.1982 and



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thereafter submitted his application for extension of leave from 30.08.1982 to 28.11.1982 on medical grounds. The respondent-Department, however, initiated disciplinary proceedings vide communication dated 06.11.1997 on the ground that the petitioner remained absent from duty without leave w.e.f. 30.08.1982 to 08.11.1983 (wrongly mentioned as 28.11.1982). An ex-parte enquiry report dated 22.10.1998 was submitted against the petitioner wherein the charge was reported as having been proved. A show cause notice was thereafter served upon the petitioner proposing the penalty of termination from service. The penalty of dismissal from service was thereafter imposed by the Director Agriculture, Haryana vide his order dated 19.02.1999 endorsed on 18.03.1999. Aggrieved thereof, CWP-4809 of 1999 was preferred before this Court wherein an interim stay on termination order was initially granted. The said writ petition was eventually disposed of on 04.09.2000 by the Division Bench relegating the petitioner to file an appeal before the competent authority.

3. The appeal thus preferred was also eventually dismissed by the respondent No.1-Financial Commissioner-cum-Secretary, Department of Agriculture on 14.01.2002 against which the instant writ petition has been filed.

4. Counsel for the petitioner raises the following arguments:-

- i) That the penalty of termination of service does not commensurate with the charge leveled against the petitioner without even considering the entire length of service rendered by him;
- ii) The disciplinary proceedings were initiated against the petitioner in November, 1997 with respect to his absence in the year 1982 i.e. after a lapse of nearly 15 years. The petitioner having served at length in an unblemished manner thereafter, the same should be



perceived as a mitigating circumstance for modifying the order of punishment.

5. Responding to the above, Counsel for the respondent-State submits that the petitioner had submitted his leave application for the period from 19.08.1982 to 20.08.1982 but he proceeded on leave without awaiting sanction by the competent authority. However, instead of joining after the expiry of the said period, the petitioner sent another application for availing joining period of seven days i.e. 23.08.1982 to 29.08.1982. Notwithstanding multiple communications sent by the respondent-Department about the leave having not been sanctioned, the petitioner refused to join. The petitioner is alleged to have absented from 19.08.1982 to 08.11.1983 i.e. for a period of 01 year and 03 months approx. Accordingly, it was deemed as a period of willful absence without leave resulting in initiating of disciplinary proceedings and consequent upon the charge having been proved against the petitioner, the final orders were passed. She further contends that the Inquiry Officer offered sufficient opportunity to the petitioner, vide different letters, to join the Enquiry proceedings but he chose not to appear and it was in the said circumstances that an ex-parte report was submitted. The said report was also furnished to him alongwith the second Show Cause Notice so as to afford an opportunity to respond to the same.

6. He, however, is not in a position to dispute that the initiation of disciplinary proceedings was after a period of nearly 15 years from the date of alleged misconduct. Further, there is also no reference in the written statement about any continued or subsequent misconduct by the petitioner other than a minor misconduct of the petitioner on 02.12.1993 pertaining to consuming



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alcohol during office hours. It is, however, not in dispute that the disciplinary proceedings initiated against the same culminated into award of punishment of stoppage of one annual increment with cumulative effect in the year 1998 i.e. a minor punishment.

7. I have heard learned Counsel appearing on behalf of the respective parties and have gone through the documents appended alongwith the present writ petition.

8. The facts not being in dispute, it is apparent that the petitioner remained absent from duty for a period of nearly 01 year and 03 months. It is also not in dispute that the petitioner had thereafter resumed duty and served for a period of nearly 15 years before the charge sheet was served upon him. The petitioner having joined the respondent-department in 1973 and having been terminated in the year 1999, seemingly rendered 26 years service with the respondent-Department by the time the order of termination of service was passed.

9. Even though ordinarily such a prolonged unexplained delay would have justified the order of termination, however, the factor which weighs upon this Court is that the petitioner was thereafter allowed to join and no disciplinary proceedings were initiated against him for 15 years. Initiation of the proceedings after such a delay fills the scales in favour of the petitioner, in the facts noticed.

10. It has been held by the Hon'ble Supreme Court that in the matter of "*S. Dhanasekaran versus Commandant & Another*" reported as *2019 (4) S.C.T 284* that where the punishment imposed by the disciplinary authorities is highly disproportionate to the charge, the Court can interfere with the quantum



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of punishment. It was further held by a Single Bench of this Court in *CWP-27449 of 2013* titled as “*Yash Rani versus State of Punjab and others*” decided vide judgment dated 10.05.2017 that total length of service rendered by an employee is a relevant factor to be taken into consideration while imposing punishment. In the said writ petition, the major punishment of removal from service was awarded to the employee who had rendered more than 28 years service with the respondent-department. The same was modified to that of compulsory retirement. The Letters Patent Appeal preferred against the said judgment was also dismissed by the Division Bench of this Court vide order dated 01.10.2018 passed in *LPA No. 1580-2017* titled as “*State of Punjab and others versus Yash Rani*”.

11. I find that the circumstances of the case in hand would be very similar to the above case already decided by this Court in the matter of Yash Rani (Supra). The petitioner having served for a considerable length of service with the respondent-Department and even after rejoining and before the initiation of proceedings, hence, for the aforesaid act of absenteeism, the punishment of termination primarily seems to be disproportionately harsh.

12. Hence, the instant writ petition is **partly allowed**. The order of termination of the service of the petitioner is modified to that of compulsory retirement from the service.

13. The respondent-Department is directed to compute the admissible financial benefits that would thus become payable to the petitioner within a period of three months of the receipt of certified copy of the order and to disburse the same to the petitioner within a further period of two months failing

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which the petitioner shall be entitled to interest @6% per annum from the expiry of the aforesaid period till its actual disbursement.

**(VINOD S. BHARDWAJ)**

**JUDGE**

**MAY 02, 2025**

*Vishal Sharma*

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