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**(2009) 04 P&H CK 0188**  
**In the Punjab And Haryana At Chandigarh**

Dr. Vikas Saxena

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

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**Date of Decision :** 23-04-2009

**Acts Referred:**

**Citation :** (2009) 04 P&H CK 0188

**Hon'ble Judges :** Ajai Lamba, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Ajai Lamba, J.—Learned Counsel for the petitioner contends that all the documents and material made available by the petitioner have not been taken into account while proceeding against him.

2. I have heard the learned counsel.

3. The articles of charges against the petitioner are of serious nature viz.:-

Article-I

Dr. Vikas Saxena, Medical Officer while posted and functioning in 37 Bn. CRPF at Chandigarh committed a serious misconduct in that, having been sanctioned 10 days casual leave with effect from 23/10/2001 to 05/11/2001 with permission to avail 24/10/2001 & 26/10/2001 being GHs and 28/10/2001 & 04/11/2001 being Sundays failed to report for duty after expiry of sanctioned leave and reported after absenting for 636 days on 04/08/2003 (FN) without any permission/sanction of competent authority. Thus, the said officer failed to maintain absolute devotion to duty and acted in a manner unbecoming of a Government servant and thereby violated the provisions contained in Rule 3(1)(ii) and (iii) of CCS (Conduct) Rules 1964.

Article-II

That the said Dr. Vikas Saxena, Medical Officer during the aforesaid period and

while posted in aforesaid office capacity committed a serious misconduct in that, having absented himself from duty further failed to comply with the lawful orders and repeated directions of Commandant, 37 Bn. CRPF to rejoin his duties and failed to respond to any communication. Thus, the said Dr. Vikas Saxena, Medical Officer failed to maintain absolute devotion to duty and acted in a manner unbecoming of a Government servant and thereby violated the provisions contained in Rule 3(1)(ii) and (iii) of CCS (Conduct) Rules, 1964.

4. The findings recorded after giving due opportunity of hearing as required by law to the petitioner are that the charges as given out above stand proved as is evident from Annexure P-8. The findings recorded on the two articles of charges, after discussing the entire material are as under:

#### Findings ? Article-I

After having gone through the various statements and exhibits brought on record on behalf of the prosecution as well as the defence and the prosecution/defence brief submitted on behalf of the prosecution and the charged officer, it has been observed that the charged officer was sanctioned 10 days casual leave with effect from 23/10/2001 to 05/11/2001 with permission to avail 24/10/2001 & 26/10/2001 being GIIs and 28/10/2001 & 04/11/2001 being Sundays failed to report for duty after expiry of sanctioned leave and remained absent from 06/11/2001 to 03/08/2003 total 636 days without any permission/ sanction of the competent authority.

When the charged officer did not report for duty, all efforts were made to contact the accused through letters but he remained on illegal absence for 636 days. In order to cover up his illegal absence, he produced medical documents/certificates of difference disease including illness of his mother. From the medical documents submitted by him, it is seen that he never remained under treatment as indoor patient for his ailments while overstaying leave. To justify his un-authorized absence, the charged officer has produced medical documents relating to his ailments followed by medical certificates.

The fact that above certificates have been issue by private medical practitioners, despite the fact that one full fledged CRPF hospital i.e. BHI is available at Delhi/ PGI at Chandigarh, leaves a doubt about approaching the private hospitals for above certificates and not availing the facilities of BH-I CRPF of PGI Chandigarh.

Hence the contentions of the charged officer justifying his absence from duty on the grounds of medical health reasons are not convincing and untenable. Hence, in view of the facts highlighted above, I am inclined to concur with the contention of prosecution, wherein the Article-I of charges framed against Dr. Vikas Saxena, MO is fully proved....

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#### Findings ? Article-II

On the basis of documentary and oral evidence adduced therein and in view of the circumstances and reasons given above, I hold that charge under Article-II is proved against Charged Officer in which he failed to comply with the lawful respond to any communication and hence failed to maintain absolute to duty.

5. No procedural error that would indicate having caused prejudice to the rights of the petitioner, has been pointed out. It being the admitted position that the petitioner remained absent for 636 days without sanctioned leave, no ground for interference in extraordinary writ jurisdiction is made out. It rather transpires that initially, during the leave period, the petitioner sent a telegram on 5.11.2001 stating that due to compelling reasons, he was resigning from the post of Medical Officer and requested to intimate the dues, if any, at his permanent address.

6. No ground for interference is made out. The facts and circumstances of the case do not call for judicial review of the impugned orders.

7. The petition is dismissed.