
(2006) 08 P&H CK 0255
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 11833 of 2006

Jai Pal

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 03-08-2006

Acts Referred:

Constitution of India, 1950 — Article 226
Haryana Civil Services (Punishment and Appeal) Rules, 1987 — Rule 9

Citation : (2006) 144 PLR 417

Hon'ble Judges : M.M.S. Bedi, J;M.M. Kumar, J

Bench : Division Bench

Advocate : N.D. Achint, for the Appellant;

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—This petition filed under Article 226 of the Constitution of India is directed against the order dated 29.8.2005 (P-6) passed by the Superintendent Central Jail, Ambala, dismissing the petitioner from service. The order dated 22.3.2006 passed by the Director General of Prisons Haryana (P-8) accepting the appeal of the petitioner reducing the punishment of his dismissal to stoppage of two increments with cumulative effect is also subject matter of challenge in this petition along with the enquiry report dated 22.7.2005 (P-4).

2. The petitioner has been working as a Sweeper and was posted as such in the Central Jail, Ambala. On 9.5.2005 a charge sheet was issued to him alleging that he willfully absented from duty. It was further alleged that the petitioner had violated the conduct rules as he made a complaint direct to the Worthy Chief Minister. Eventually he was placed under suspension on 12.4.2005 before issuing the charge sheet on 9.5.2005. He replied the charge sheet which was found to be unsatisfactory. An Enquiry Officer was appointed who submitted his enquiry report dated 22.7.2005 (P4) and found him guilty of the charges. The Enquiry Officer has also observed that the petitioner had attempted to misbehave with him. It has further been observed that the allegations made by the petitioner in

the Civil Suit have been found to be baseless. On the basis of the enquiry report a show cause notice was issued to the petitioner to which he duly replied. After considering the reply to the show cause notice the Punishing Authority i.e. Superintendent Central Jail, Ambala, passed an order of dismissal dated 29.8.2005. The operative part of the order reads as under:

I have carefully gone through the findings of the Enquiry Officer and reply to the show cause notice submitted by the delinquent Jaipal and also perused the record of the inquiry file. The staff of Jail Department is a disciplinary force. Any discipline or misconduct tarnishes the morale of the force and spreads indiscipline. I agree with the findings of the Enquiry Officer. The charges against Jaipal sweeper have been proved during the departmental enquiry. The delinquent remained wilfully absent from his duty without getting the leave sanctioned and made a false complaint against the Jail authorities without adopting a proper channel. From the record and findings of Enquiry Officer, it is clear that the delinquent Jaipal is not fit for retaining in service and deserves dismissal. Hence Jaipal Sweeper is dismissed from service with immediate effect. Since, the delinquent is found guilty of charges, hence he is not entitled to any allowance for the period other than which he has been paid during suspension period. It is hereby ordered accordingly.

The petitioner filed an appeal under Rule 9 of the Haryana Civil Services (Punishment and Appeal) Rules 1987 to the Director General of Prisons (P-7) which was partly accepted. The Director General of Prisons vide order dated 21.3.2006 reduced the punishment of dismissal to that of stoppage of two future grade increments with permanent effect. It was also directed that the petitioner was not to get anything more for the period of suspension except the subsistence allowance already paid to him. The period from the date of dismissal till the date of reinstatement was to be treated as Extra Ordinary leave. The operative part of the order passed by the Appellate Authority i.e. Director General of Prisons reads as under:

I have again gone through the all relevant records and found that punishment of dismissal from service for his absence only of 22 days appears to be rather harsh. He had however, compounded his mistake by making allegations against senior officers. This has added to his default of 22 days absence. Keeping in view the serious illness of his daughter who has a hole in her heart, I am inclined to take a lenient view in this matter. He has promised not to repeat such act in future. I, therefore, reduce the punishment of dismissal from service into that of penalty of stoppage of two future increments with permanent effect. He will not get anything more for the period of suspension apart from whatever he has got as subsistence allowance. The period of dismissal will be treated as Extra Ordinary leave. He is posted at District Jail, Kurukshetra against vacant post.

3. Having heard the learned Counsel we are of the considered view that the order passed by the Appellate Authority does not suffer from any illegality warranting interference of this Court. The conduct of the petitioner has been

found to be blame worthy apart from his absence from duty by the Enquiry Officer as is evident from the enquiry report. The petitioner has even made an attempt to misbehave with the Enquiry Officer. His conduct of approaching the Supreme Executive of the State i.e. Worthy Chief Minister is also against the conduct rules. The extreme punishment of dismissal imposed by the Superintendent Jail has already been reduced to that of stoppage of two increments with cumulative effect as the petitioner had undertaken before the Appellate Authority that he would not repeat such an act in future. Therefore, we are inclined to uphold the order of the Appellate Authority as already lenient view has been taken. We cannot sit as a court of appeal over the report of the Enquiry Officer. Nothing has been shown to us which may indicate that the Enquiry Officer has violated principles of natural justice or has not permitted the petitioner to cross-examine the witnesses or violated any rules applicable for holding of a departmental enquiry, namely, Haryana Civil Services (Punishment and Appeal) Rules 1987.

4. The petition is wholly misconceived and the same is accordingly dismissed.