

(2010) 05 SHI CK 0129
In the High Court Of Himachal Pradesh

Sh. Rattan Singh

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 04-05-2010

Acts Referred:

Citation : (2010) 05 SHI CK 0129

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Judgement

Sanjay Karol, J.—The petitioner was working as Sub Inspector in the Wireless Organisation of the Police Department of the State when the respondents initiated disciplinary proceedings against him. Show cause notice was issued to him to which he replied. Petitioner did not join his duties at the place of transfer and absented himself w.e.f. 18.4.1993 up to 4.2.1994. The respondents did not find favour with the explanation furnished by the petitioner and in terms of order dated 31.10.1994 held him guilty of misconduct. But however a lenient view was taken and the following penalty was imposed:

Therefore, the undersigned is not agreeable with the reply submitted by Sub Inspector Rattan Singh to the show cause notice. Therefore, after perusal of all evidence produced in the departmental inquiry, Inquiry Report submitted by the Inquiry Officer and the reply submitted by Sub Inspector Rattan Singh to the show cause notice, I, K.S. Sasondhia, Dy. Inspector General, Wireless, H.P., taking a lenient view keeping in view the long service rendered by Shri Rattan Singh Sub Inspector, instead of the prescribed punishment for his above mentioned conduct, hereby order stoppage of one increment with cumulative effect.

The bar put in the disbursement of salary of the above mentioned Sub Inspector (Wireless) Rattan Singh is removed. His absence period from 18.4.93 to 4.2.94 shall be regularised on receipt of his service book because the service book of above mentioned Sub Inspector has been sent to the police Headquarters with this office letter No. 2191 dated 4.10.94.

2. Aggrieved of the same petitioner exercised his statutory right of filing an appeal which also stands dismissed in terms of order dated 27.5.1995. Consequential order dated 26.11.1994 was passed by the respondents whereby petitioner's absence from work was regularised in the following terms:

In continuation this office order No. 24087 dated 31/10/94, the absentee period w.e.f. 18/4/93 to 4/2/94 viz. 293 days in respect of S.I. Rattan Singh of this organisation is regularised as under:

Period. From To: Days. (1) 18/4/93 15/11/93 212 Days E.L. (2) 16/11/93 4/2/94 81 days H.P.L.

3. From the record it could not be shown as to how the orders passed by the authorities imposing penalty is illegal. Adequate opportunity of hearing and representation was afforded to the petitioner at all times and stages. Entire material was also taken into consideration while arriving at the decision. Even before the Inquiry Officer petitioner had been afforded adequate opportunity of hearing/ representation and the inquiry report was also communicated to him. As such I find no illegality in the same. The petitioner absented himself from duties which fact stands proved on record. In my considered view the respondents authorities themselves have taken a lenient view and imposed a minor penalty.

4. It is further the grievance of the petitioner that he was having 142 days of medical leave to his credit. Hence the authorities erred in regularising his absence by granting earned leave. In the return the respondents have simply stated that the period of absence was rightly regularised by the respondents.

5. There is no denial to the fact that medical leave was lying to the credit of the petitioner and that the same could be taken into account while regularising the petitioner's absence. Even the Inquiry Officer in his report dated 3.6.1994 has observed that the certificates issued by the Government and private establishments indicating the petitioner's illness were placed on record. Before taking decision the authorities did not take this aspect of the matter into account. As such on a limited point respondent No. 2 is directed to take a fresh decision with respect to the regularisation of the petitioner's absence by taking into account the medical leave due to his credit. The decision shall be taken within a period of twelve weeks from the date of the receipt of the certified copy of the order. Needless to add the authorities shall afford reasonable opportunity of hearing/representation to the petitioner and also communicate the order to him.

6. With the aforesaid observations the present petition stands disposed of.