

*Before Alok Singh, J.*

**CONSTABLE HARJINDER SINGH,—Petitioner**

**versus**

**STATE OF HARYANA & OTHERS,—Respondents**

**CWP No. 3127 of 1996**

23rd September, 2010

*Constitution of India, 1950—Art. 226—Dismissal of services of a Constable for remaining unauthorizably absent from duty for 77 days—Habitual absentee—Petitioner earlier also awarded minor punishments—Not entitled for any sympathy—Petition dismissed.*

*Held*, that prior to the unauthorized absent of 77 days, the ground of impugned dismissal order, petitioner also remained absent for 86 days from 4th September, 1991 to 1st December, 1991 and was also found absent from duties on 21st March, 1990, 6th January, 1992, 8th May, 1993 to 17th May, 1993 and 13th November, 1993 to 15th November, 1993 and for all those unauthorized absence, petitioner was awarded minor punishments. It seems the petitioner is not disciplined constable. He is in habit to remain absent unauthorizably.

(Para 3)

*Further held*, that the petitioner is a habitual absentee and for his prior unauthorized absence, he was awarded minor punishments and again petitioner did not mend his ways and again remained absent unauthorizably for 77 days, *hence*, I do not find any reason to interfere with the impugned order. Petitioner is not entitled for any sympathy from this Court. Police Force is a disciplined force and unauthorized absent cannot be and should not be tolerated.

(Para 4)

Ravi Malhotra, Advocate, for R.S. Malhotra, Advocate, *for the petitioner.*

Gaurav Dhir, DAG, Haryana, *for the respondents.*

**ALOK SINGH, J.**

(1) Petitioner has invoked jurisdiction of this Court under Article 226 of the Constitution of India seeking writ of certiorari challenging the order dated 27th September, 1994 (Annexure P/1) passed by Superintendent of Police, Kaithal, whereby petitioner was directed to be dismissed from police service and orders dated 9th November, 1994 (Annexure P/3) and 30th January, 1996 (Annexure P/5) passed by the higher authorities on the appeal and revision filed by the petitioner.

(2) The brief facts of the present case are that petitioner was enrolled as Constable on 17th April, 1989 in the Haryana Police ; petitioner remained absent unauthorisedly from his duties for 77 days, 15 hours and 5 minutes during the year 2003 ; enquiry officer was appointed on 24th November, 1993, who served the petitioner with summary of allegations, supported by list of prosecution witnesses and list of documents on 20th December, 1993 ; petitioner submitted his reply before the Enquiry Officer ; Enquiry Officer having heard returned finding holding the petitioner guilty of charges ; show cause notice was issued to the petitioner on 11th April, 1994 and reply to show cause notice was filed on 30th April, 1994 ; thereafter on the transfer of Shri Mohinder Lal, the then Superintendent of Police, another show cause notice was issued to the petitioner on 10th June, 1994 and thereafter, respondent No. 4 passed the impugned order dated 27th September, 1994, dismissing the petitioner from service for remaining unauthorisedly absent for 77 days from the duties. Petitioner, thereafter, approached the D.I.G., Ambala Range, by way of appeal, which was dismissed,—*vide* order dated 12th October, 1994. Petitioner, thereafter, filed revision petition before the Director General of Police, which too was dismissed,—*vide* order dated 30th January, 1996.

(3) Undisputedly, prior to the unauthorized absent of 77 days, the ground of impugned dismissal order, petitioner also remained absent for 86 days from 4th September, 1991 to 1st December, 1991 and was also found absent from duties on 21st March, 1990, 6th January, 1992, 8th May, 1993 to 17th May, 1993 and 13th November, 1993 to 15th November, 1993 and for all those unauthorized absence, petitioner was awarded minor punishments. It seems the petitioner is not disciplined constable. He is in habit to remain absent unauthorisedly.

(4) In the opinion of this Court, petitioner is a habitual absentee and for his prior unauthorized absence, he was awarded minor punishments and again petitioner did not mend his ways and again remained absent unauthorisedly for 77 days, hence, I do not find any reason to interfere with the impugned order. Petitioner is not entitled for any sympathy from this Court. Police Force is a disciplined Force and unauthorised absent cannot be and should not be tolerated.

(5) Petition is devoid of merit, hence, is dismissed.

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