

(2002) 09 P&H CK 0032

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular Second Appeal No. 378 of 1996

State of Punjab and Others

APPELLANT

Vs

Nirmal Singh

RESPONDENT

Date of Decision: Sept. 12, 2002

Acts Referred:

- Punjab Police Rules, 1934 - Rule 16.21

Citation: (2003) 133 PLR 502

Hon'ble Judges: M.L. Singhal, J

Bench: Single Bench

Advocate: B.S. Sewak, Asstt. Advocate General, for the Appellant; Narinder Kumar Suneja and Navneet Kaur, for the Respondent

Final Decision: Dismissed

Judgement

M.L. Singhal, J.

Nirmal Singh was constable in the Punjab Police on the rolls of Distt. Police, Amritsar. His constabulary number was 2506/Amsr. He joined the police force on 11.4.1966. In September, 1983, he was put on general duty at Police Lines Amritsar. On 4.9.1983 at 8.15 PM when roll calls took place, he was found absent. Factum of his absence was recorded into the daily roznamcha against report No. 39 at 8.15 P.M. dated 4.9.1983. He reported back for duty on 4.2.1984 i.e., after he had remained absent from duty for a period of 5 months 1 day 22 hours and 15 minutes. On the charge of absence from duty, he was departmentally dealt with. There was regular inquiry into his conduct. On the conclusion of the regular inquiry, he was found guilty of the charge of absence from duty, SSP, Amritsar vide order dated October 25, 1984 dismissed him from service. Order passed by the SSP, Amritsar dated 25.10.84 dismissing him from service is highly laconic as he has not adverted at all the provisions of Rule 16.2 of the Punjab Police Rules. According to Rule 16.2, dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect of continued misconduct proving incorrigibility and complete

unfitness for police service. In making such an award, regard shall be had to the length of service of the offender and his claim to pension."

2. In this case, there was no charge that he was ever absent from duty earlier. It is true that a single act of misconduct can also entail dismissal of the member of a police force from service but it should be a grave act of misconduct. In this case, single act of absence from duty cannot be viewed as a grave act of misconduct. There is nothing on the record to suggest that he was incorrigible and had rendered himself completely unfit for police service. Although he had put in about 17 years of service on the date of absence from duty, SSP, Amritsar did not advert at all to his eligibility to the grant of pension for having put in the said number of years of service.

3. In *State of Haryana v. Lakhan Singh* 1991(2) SCT 718, it was held that even a single act of misconduct if it is gravest will attract Rule 16.2. Dismissal under Rule 16.2 without recording finding that act of misconduct proved the employee completely unfit for police service order of the punishing authority will be bad in law.

4. It was held in *State of Punjab v. Parkash Chand, Constable* 1992(1) SLR 174 that where in the impugned order the punishing authority has not recorded any finding that the act of the delinquent amounted to the gravest act of misconduct, the impugned order cannot be sustained. It is essential for the punishing authority to apply its mind and record a specific findings as to whether the act of the delinquent official which has been complained of is of such a grave nature that it must lead inflexibly to his dismissal. Gravest act of misconduct must imply a matter of utmost seriousness.

5. Since the impugned order passed by SSP, Amritsar dismissing the respondent constable from police service does not satisfy the requirement of Rule 16.2, in my opinion, the learned Additional District Judge was well within his jurisdiction to set aside the dismissal of the suit and instead pass a decree decreeing the suit and declaring that the impugned order passed by SSP, Amritsar is illegal, null and void and against the principles of natural justice with consequential relief inclusive of all allowance etc. State appeal fails and is dismissed.