

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 647 of 2022

HEMANT KUMAR SINGH, son of Sri Byasdeo Singh, resident of Shivsagar, Domchanch, P.O. & P.S. Domchanch, District Koderma (Jharkhand).

....Petitioner(s).

Versus

1. The State of Jharkhand
2. The Principal Secretary, Department of Home, Jail and Disaster Management, Govt. of Jharkhand, Project Bhawan, Dhurwa, P.O. & P.S. Dhurwa, District Ranchi.
3. The Director General and Inspector General of Police, Jharkhand, Police Headquarter, Dhurwa, P.O. & P.S. Dhurwa, District Ranchi.
4. The Deputy Inspector General of Police, South Chhotanagpur Range, Ranchi, P.O; and P.S. Ranchi, District Ranchi
5. The Senior Superintendent of Police, Ranchi, P.O. GPO, P.S. Kotwali, District Ranchi.
6. The Superintendent of Police, Giridih, P.O. and P.S. Giridih, District Giridih.

... Respondent(s).

CORAM : SRI ANANDA SEN, J.

For the Petitioner(s) : Mr. Deepak Kumar Prasad, Advocate
For the State : Mr. Divyam, AC to SC-IV

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14/ 20.01.2026: By way of filing this writ petition, the petitioner has sought for the following reliefs:-

- i. For quashing of Memo No.7749 dated 24.06.2020 passed by Senior Superintendent of Police, Ranchi whereby the petitioner was dismissed from service for absent of 332 days from sanctioned leave, the Disciplinary Authority has not given finding that it is willful absence.*
- ii. For quashing of order dated 02.11.2020 whereby the Respondent No.4 has dismissed the appeal preferred by the petitioner without going through the facts and laws submitted by the petitioner and subsequently quashing of Memo No.219 'dated 06.12.2021 whereby the memorial filed by the petitioner before Director General of Police, Jharkhand was also dismissed.*

- iii. *For direction upon the respondents after quashing the Memo No. 7749 dated 24.06.2020 and subsequent order, respondents should pay consequential benefit to the petitioner.*

2. The petitioner was appointed as a Constable in the Jharkhand Police Force in the year 2005 and was initially posted at Ranchi. The petitioner was granted sanctioned leave for seven days with effect from 17.03.2012. After the expiry of the sanctioned leave, the petitioner could not rejoin duty. He rejoined his duty on 20.02.2013. A charge memo bearing Memo No.7727 dated 13.08.2013 was issued to the petitioner alleging that he remained unauthorizedly absent from duty for 332 days beyond the sanctioned leave, thus a Departmental Proceeding was initiated. On conclusion of the departmental enquiry a second show-cause notice was issued to the petitioner and the petitioner submitted a reply dated 29.05.2020, again denying the allegation. The Disciplinary Authority on 24.06.2020 passed an order of dismissal from service. Aggrieved by the order of dismissal, the petitioner preferred an appeal dated 14.07.2020 which was dismissed by order dated 02.11.2020. The petitioner thereafter filed a memorial dated 15.02.2021 which was also dismissed. Being aggrieved by the aforesaid orders, the petitioner has filed present writ petition.

3. Learned counsel for the petitioner submits that petitioner could not rejoin duty due to serious medical illness. During this period, he sent applications for extension of leave through registered post along with medical certificates. He further submits that the petitioner was also under custody from 04.12.2012 to 23.01.2013, which was beyond his control which prevented him from joining duty. Learned counsel for the petitioner relied upon the judgement of Hon'ble Supreme Court in the case of *Krushnakant B. Parmar vs. Union of India & Anr.*, reported in (2012) 3 SCC 178 wherein the Hon'ble Supreme Court held that absence from duty cannot be treated as misconduct unless it is proved to be willful. In the present case, this essential

requirement has been completely ignored. He also submits that the Enquiry Officer did not verify the medical certificates and ignored the defence taken by the petitioner. He further submits that the appeal was dismissed without considering the grounds raised by the petitioner.

4. The learned counsel for respondents submits that the petitioner has deliberately suppressed the fact that he was in judicial custody and his absence was therefore treated as unauthorized absence. He further submits that seven days sanctioned leave was never extended by any written order of the competent authority, therefore he could not presume that his leave was regularized. He further submits that after considering all materials on record, the Enquiry Officer found the charges proved and accordingly submitted his report. He also submits that after due considered the reply of the petitioner to the second show cause, the Disciplinary Authority found it unsatisfactory, and dismissed the petitioner from service. There is no procedural lapse or illegality in the disciplinary proceedings and adequate opportunity was given to the petitioner. He further submitted that the punishment is not disproportionate, hence, no interference is required by the Court and it is not a fit case for judicial review under Article 226 of the Constitution of India.

5. After hearing both the parties and upon perusal of the records, I find that the petitioner who is constable, remained absent from duty for 332 days after sanctioned leave. A departmental inquiry was conducted on the aforesaid charge in accordance with law. The charge against the petitioner was proved, and no procedural irregularity or illegality in the entire proceeding. Principle of Natural justice has been followed by according full opportunity.

6. The petitioner retired on the judgment in "*Krushnakant B. Parmar*" (*supra*), which has been relied by the learned counsel for the

petitioner contending that before an inference is drawn regarding willful misconduct of the petitioner, the departmental authorities are required to find out whether there was any compelling circumstance for the delinquent employee on account of which he could not report to the duty.

In “*Krushnakant B. Parmar*” (*supra*) the Hon'ble Supreme Court in paragraph Nos. 16, 17 and 18 has observed as under:

“16. The question whether unauthorised absence from duty amounts to failure of devotion to duty or behaviour unbecoming of a Government servant cannot be decided without deciding the question whether absence is willful or because of compelling circumstances.

17. If the absence is the result of compelling circumstances under which it was not possible to report or perform duty, such absence cannot be held to be willful.

18. Absence from duty without any application or prior permission may amount to unauthorised absence, but it does not always mean willful. There may be different eventuality due to which an employee may abstain from duty, including compelling circumstances beyond his control like illness, accident, hospitalisation, etc., but in such case the employee cannot be held guilty of failure of devotion to duty or behaviour unbecoming of a Government servant”.

7. There is no doubt that absence from duty without any application or permission shall amount to unauthorized absence. The petitioner remained absent from duty for 332 days and did not make any communication or representation to the authority. He also suppressed the fact that he was in judicial custody. The medical records produced by him which indicates his illness, cannot be an excuse for not intimating the Authority regarding his continued absence from duty due to his judicial custody on account of criminal case lodged against him. Thus, the absence from duty of the petitioner is rightly held to be willful and intentional. His suppression of the fact that he remained in custody is also deliberate.

8. It is well settled that the Court exercising jurisdiction under Article 226 of the Constitution of India does not sit in appeal over the findings of the departmental proceeding, unless perversity or gross

illegality is shown, which is absent in the present case. The Hon'ble Supreme Court in the case of *SBI v. Ram Lal Bhaskar* reported in **(2011) 10 SCC 249** in paragraph 12 has held as under –

12. *This Court has held in State of A.P. v. S. Sree Rama Rao [AIR 1963 SC 1723] : (AIR pp. 1726-27, para 7)*

"7. ... The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence."

9. In view of the judgments of the Hon'ble Supreme Court and the facts of the case, I find that the departmental enquiry was conducted in accordance with law and the charge of unauthorized absence was duly proved. Further the petitioner is a member of disciplined force (constable), hence he is required to maintain strict discipline [refer, **Samar Bahadur Singh v. State of U.P.** reported in **(2011) 9 SCC 94**]. Thus, there is no ground to interfere with the impugned order.

7. Accordingly, the writ petition is **dismissed**.

(ANANDA SEN, J.)