

A

MALKIAT SINGH

v.

STATE OF PUNJAB AND ORS.

JANUARY 29, 1996

B

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Service Law :*

C

D

*Police constable—Discharge from service—Absence from duty and irregular in attending duty—Absence on three occasions—Held; Can not be considered to be regular absence so as to conclude that he had not proved his efficiency—On the third occasion, the absence not deliberate as his wife's delivery had complications as revealed by the Medical Certificate—One more opportunity to be given to the constable to prove his excellence—To be reinstated in service—In case he absents for two consecutive days within one year without prior permission action be taken for dismissing him from service.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3506 of 1996.

E

From the Judgment and Order dated 27.4.94 of the Punjab & Haryana High Court in C.W.P. No. 9775 of 1993.

K. R. Nagaraja for the Appellant.

Ranbir Yadav and G.K. Bansal for the Respondents.

F

The following Order of the Court was delivered :

Leave granted.

We have heard the counsel on both sides.

G

H

The appellant was appointed on April 20, 1990 and was discharged from service on July 22, 1992 on the ground that he remained absent from duty for more than 1 month 9 days. Another ground was that he was irregular in attending to the duty. So he could not prove himself to be an efficient Constable. We had sent for the records which disclose that he was absent on three occasions. On the first occasion, when he was called upon to report for duty at 12 noon, he reported on September 10, 1990 and was

late by six hours. On the second occasion, he was absent, on June 30, 1991, from night duty. The third occasion was on April 24, 1995. The explanation offered for the absence on third occasion was that since in his wife's delivery certain complication had arisen, he to attend to his wife and so he could not be present. The Medical Certificate in that behalf was produced. In view of the Medical certificate, it cannot be said that he had deliberately absented himself from duty. On the previous two occasions, the absence for one day and in another year for one night cannot be considered to be regular absence so as to reach the conclusion that he had not proved his efficiency. It is true that discipline is required to be maintained. However, absence may sometimes be inevitable. In the facts and circumstances of this case, an opportunity may be given to the appellant to work efficiently to prove his excellence. The order of discharge is set aside. The respondents are directed to take the appellant into service forthwith. If the appellant absence himself again for two consecutive days within one year without prior permission. Appropriate action may be taken by dismissing him from service. The appellant, however, is not entitled to back- wages.

Appeal is accordingly allowed. No costs.

G.N.

Appeal allowed.