

Malkiat Singh

Vs

State of Punjab and Others

Civil Appeal No. 3506 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

29.01.1996

ORDER

1. Leave granted.

2. We have heard the counsel on both sides.

3. The appellant was appointed on 20-4-1990 and was discharged from service on 22-7-1992 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 10-9-1990 and was late by six hours. On the second occasion, he was absent, on 30-6-1991, from night duty, The third occasion was on 24-4-1995. The explanation offered for the absence on the third occasion was that since in his wife's delivery certain complication had arisen, he had 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 absents 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.

4. Appeal is accordingly allowed. No costs.