

2024.PHHC:064011



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.963 of 2000 (O&M)
Reserved on: 02.05.2024
Pronounced on: 15.05.2024

Surinder Pal
.....Appellant
Versus
Haryana State and another
.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Amaninder Singh Sekhon, Advocate
for the appellant.

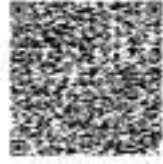
Mr. Ravi Dutt Sharma, DAG, Haryana.

NAMIT KUMAR J. (Oral)

1. Having failed before the learned Courts below by recording concurrent findings, the plaintiff/appellant has preferred instant regular second appeal, impugning the judgments and decrees dated 20.03.1998 and 16.11.1999 passed by the trial Court and Lower Appellate Court. Parties to the lis hereinafter shall be referred to by their original position in the suit.

2. The plaintiff/appellant filed a suit for declaration to the effect that order of dismissal dated 13.12.1991, passed by the Superintendent of Police, Hisar and appellate order dated 17.10.1992, passed by the Deputy Inspector General of Police, Hisar Range, Hisar, and revisional order dated 21.02.1993, passed by the Director General of Police, Haryana, are bad in law and are liable to be set-aside. The plaintiff/appellant had joined as Constable in the office of

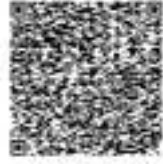
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Superintendent of Police, Hisar and remained absent from 25.12.1989 to 28.12.1989 and then from 22.01.1990 to 27.03.1991, and was proceeded departmentally and after holding departmental enquiry, he was dismissed from service vide order dated 13.12.1991, passed by the Superintendent of Police, Hisar. Aggrieved against the said order, he preferred an appeal before the Appellate Authority i.e. Deputy Inspector General of Police, Hisar Range, Hisar, which was considered and rejected by the said authority on 17.10.1992 and thereafter, against these orders, he preferred a revision before the Director General of Police, Haryana, which was also rejected vide order dated 21.02.1993. The said orders were challenged by the plaintiff/appellant in the suit which was dismissed vide judgment and decree dated 20.03.1998, passed by the trial Court, by recording the following findings:-

“The plaintiff was absent more than three days and took the defence of his illness but no medical certificate was produced. The law relied by the ld. counsel for the plaintiff leads the circumstances whereby the medical certificate was duly produced and the same was not considered by the competent authority. Here the only plea taken by the delinquent is that he was ill as OPARI (effected from the Ghost) and got treated from Molvi, therefore, no medical evidence could be tendered in support of his claim. So far as the dismissal of the delinquent is concerned under Rule 16.2, I am of the view that the action is properly taken. The law relied by the Ld. G.P. supported this view that the absence of duty is a grave misconduct. So far as the sanction of the DM is required

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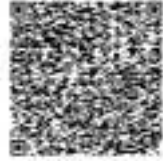


under Rule 16.38 here the law relied by the Ld. G.P. clears the position. Therefore, the plaintiff fails to prove the issue No.1 in his favour being the circumstances are not properly explained that the order in question are illegal and liable to be set aside. Hence, the issue No.1 is decided in favour of the defendant and against the plaintiff.”

3. Aggrieved by the said judgment and decree dated 20.03.1998, the plaintiff/appellant preferred an appeal along with an application under Order 41 Rule 27 CPC, for leading additional evidence/documents. The said application was duly considered by the learned Lower Appellate Court, by recording the following findings:-

“11. I have carefully considered the above arguments of learned counsel for the appellant but I am not impressed with the same. A perusal of the trial Court’s record reveals that the enquiry against the appellant in respect of his absence from duty from 25.12.89 to 28.12.89 and then from 22.1.90 to 27.3.91 was submitted by the Enquiry Officer on 27.3.91. The Superintendent of Police passed dismissal order against the plaintiff on 13.12.91. Admittedly, the plaintiff filed an appeal before the Deputy Inspector General of Police, Hisar Range, Hisar which was dismissed on 17.12.91, the revision of the plaintiff was also dismissed vide order dated 21.2.94 passed by Director General of Police Haryana, Chandigarh. The notices dated 14.11.91 and 21.11.91 produced by the plaintiff do not relate to this enquiry. Learned Govt. pleader has contended that the notices dated 14.11.91 and 21.11.91 pertain to another departmental enquiry which was initiated against the plaintiff in the month of October, 1991 for his absence from duty for the period from 6.7.91 to till date of

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preparation of summary of allegations by the Enquiry Officer, thus, the notices now sought to be produced by way of additional evidence are not relevant for the decision of this appeal. I do not find any merit in the application for additional evidence and the same is dismissed.”

It was further held by the learned Lower Appellate Court,
as under:-

“13. I have carefully considered the above arguments of learned counsel for the appellant. In Ex. Constable Tarsem Singh Vs. State of Punjab and others (supra) a charge sheet was served upon the petitioner for alleged absence of 89 days and one hour but punishment was imposed for having remained absent for 356 days. The petitioner was never called upon by the disciplinary authority himself or before the Enquiry Officer in respect of the charge of having remained absent from duty for a period of 356 days. It was found that the petitioner was punished for a charge in respect of which he had no opportunity of defence. Further, the disciplinary as well as punishing authority took into consideration the above absence of the petitioner even though period of absence stood regularised by grant of leave without pay. It was after taking into consideration the above circumstances that it was held that the order of punishment was vitiated. In the instant case, the position is entirely different. The copy of summary of allegations/charge sheet Ex. D-1 shows that initially it was alleged against the appellant that he went on casual leave for 5 days and he had to report back for duty on 25.12.89 but he did not report for duty and therefore a departmental enquiry was initiated. It is pertinent to note that during the enquiry the appellant did not appear and he was proceeded

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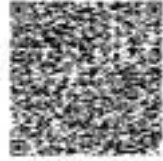


ex parte on 23.1.91. Thereafter the statements of the witnesses of the department were recorded. It was also found that on 22.1.90 the plaintiff-appellant went on casual leave for three days and thereafter he again absented from duty. A charge sheet dated 7.1.91 copy of which is Ex.D-5 was served upon the plaintiff-appellant in which it was specifically alleged that the plaintiff had gone for three days casual leave on 22.1.90 but thereafter he remained absent from duty. That charge sheet was approved on 9.2.91. It goes to show that the appellant remained absent from duty since 25.1.90 to 9.2.91. In fact the appellant remained absent from duty even till submission of the report by the Enquiry Officer Sh. Mukhtiar Singh DSP, Tohana on 27.3.91. Thus, it cannot be stated that the appellant was punished for allegations which did not form part of the charge sheet. On the other hand, the appellant was given an opportunity of defence in respect of his absence after 22.1.90 also. It is significant to note that the appellant produced a list of the witnesses and also made his statement and thereafter enquiry report was made against him. In the instant case past record of the appellant in respect of his absence was taken into consideration. I feel that appellant had every opportunity of defence in respect of the charge for absence w.e.f. 25.12.89 and also w.e.f. 25.1.90.”

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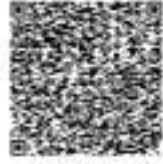
"19. After giving my thoughtful consideration to the rival contentions of both the sides, I feel that the arguments of the learned govt. pleader for the respondents have considerable force and the same must prevail. A perusal of the trial court's record shows that the appellant did not indicate anywhere in the plaint as to what were the reasons

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on account of which he remained absent from duty for such a long period. Pertinently, when the plaintiff came in the witness box as PW-1 before the learned trial court he told in his cross examination that he was feeling tension in his mind and he got himself treated from Rajasthan. He stated that he had sent a telegram to the Superintendent of Police for leave. However, he did not produce a copy of any such telegram. The plaintiff-appellant did not examine even a single witness who could come and say that the plaintiff-appellant was not well, therefore, he did not attend his duty. A perusal of the order Ex.PA shows that the plaintiff pleaded during departmental proceedings that he remained sick because he was under the influence of supernatural forces. If it was so the plaintiff had every opportunity to produce some evidence before the learned trial court on this aspect. The record shows that the appellant miserably failed to put forward any just ground for his remaining absent from duty before the enquiry officer or before the Id. trial court. In the rulings cited by learned counsel for the appellant, the appellants of those cases put forward some valid ground for their absence from duty. In Navtej Singh vs. State of Punjab (supra) the petitioner pleaded that his absence was on the ground of his illness. In State of Punjab vs. Kashmir Singh (supra) also the respondent pleaded that he was confined to bed as per medical advice. In Ex. Contable Tarsem Singh vs. State of Punjab and others (supra) also the petitioner contended that he suffered jerk in his spinal cord. In Sukhvinder Singh Ex. Constable vs. State of Punjab (supra) the petitioner was a member of Scheduled Caste and the order of his dismissal was set aside taking into consideration the facts of that case. The Hon'ble Judges while passing the order observed that they

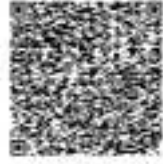
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were passing the order of reinstatement without intending to lay down any precedent. In the instant case, the plaintiff failed to adduce any evidence justifying his absence from duty. In the order Ex.PA it was observed by the Superintendent of Police, Hisar that his absence from duty without any permission on leave from his superior amounted to a grave misconduct on his part. The order in revision Ex.PB also shows that Director General of Police, Haryana, Chandigarh observed that the charge against the plaintiff was of a highly irresponsible and grave nature and did not warrant any mercy. In *Krishan Lal Ex. Constable vs. State of Punjab* (supra) a police constable remained absent from duty for 48 days and it was held that his conduct amounted to grave misconduct and the punishment of dismissal was found to be not disproportionate. In *State of UP vs. Ashok Kumar Singh* (supra) the Hon'ble High Court of Allahabad interfered with the punishment of removal of a police constable. The Hon'ble Apex Court held as under:

"We are clearly of the opinion that the High Court has exceeded its jurisdiction in modifying the punishment while concurring with the findings of the Tribunal on facts. The High Court failed to bear in mind that the first respondent was a police constable and was serving in a disciplined force demanding strict adherence to the rules and procedures more than any other department. Having noticed the fact that the first respondent has absented himself from duty without leave on several occasions, we are unable to appreciate the High Courts' observations that his absence from duty would not amount to such a grave charge. Even otherwise on the facts of this case, there was no justification for the High Court to interfere with the punishment holding that the punishment does not commensurate with the gravity

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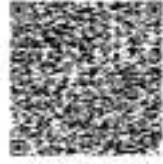
of the charge especially when the High Court concurred with the findings of the Tribunal on facts. No case for interference with the punishment is made out."

20. *In the instant case also, I feel that the action of the plaintiff in remaining absent from duty for 3 days w.e.f. 25.12.89 and for one year and two months w.e.f. 25.1.90 amounted to grave misconduct on his part. The order passed by the Superintendent of Police, Hisar is in accordance with the requirements of Rule 16.2 of the Police Rules. In my view any undue sympathy with such type of Police official may play havoc with the discipline in the police force.*

21. *Learned counsel for the appellant has further argued that the enquiry report copy of which is Ex.D-7 is not admissible in evidence. He has contended that mere marking of document as an exhibit does not dispense with its proof. In order to fortify his arguments, he has cited Sait Tarajee Khimchand and others vs. Yelamarti Satyam and others AIR 1971 (SC)1865. Learned counsel for the appellant has urged that the enquiry officer did not step in the witness box and even his signatures on his enquiry report were not proved, therefore, the enquiry report copy of which is Ex. D-7 cannot be taken into consideration.*

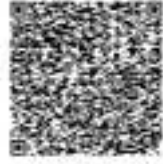
22. *There is no dispute with the proposition of law laid down in Sait Tarajee Khimchand and others vs. Yelamarti Satyan and others (supra) that mere marking of a document as an Exhibit does not dispense with its proof. However, in the instant case a perusal of the file shows that DW-1 Raghuraj Singh CRC of Supdt. of Police office brought the relevant file and produced the document Ex.D-1 to D-10. When the documents Ex.D-1 to Ex.D-8 were*

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produced no objection against the admissibility was firstly raised when the document Ex.D-9 was produced. Later on at the end of the examination in chief an objection about the mode of proof of all the documents Ex.D-1 to Ex.D-10 was raised. It is true that enquiry officer has not stepped in the witness box. However, even if the contents of the enquiry report Ex.D-7 are not read nevertheless it cannot be assumed that the enquiry was not conducted in accordance with rules. It is not the case of the appellant in the plaint that enquiry was not conducted against him. A perusal of the order Ex.PA passed by the Superintendent of Police, Hisar shows that he considered the findings of the enquiry officer and found himself in agreement with the enquiry officer. After the receipt of the enquiry report, he served a show cause notice of proposed punishment of dismissal upon the plaintiff-appellant. The appellant submitted his written reply and after considering his reply an order of his dismissal from service was passed on 13.12.91. Thus, even if the report of enquiry officer is not taken into consideration nevertheless the charge against the plaintiff-appellant is duly proved. A perusal of the order dated 13.12.91 Ex.PA itself shows that the enquiry was conducted in accordance with the provisions of law. Initially the appellant was proceeded exparte before the enquiry officer but later on he joined enquiry and submitted a list of his DWs. The appellant also appeared before the enquiry officer on 18.3.91 and submitted his written reply. The enquiry officer had no reason to give a false report against the appellant. As I have already observed even during the pendency of the civil suit before the trial court, the plaintiff failed to justify his absence from duty. In this view of the matter, I feel that it is

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immaterial if the enquiry officer did not come in the witness box to prove his report.

23. Learned counsel for the appellant has further contended that in appeal as well as revision no opportunity of hearing was given to the appellant, therefore, the orders in appeal or revision are bad and cannot be sustained. Learned counsel for the appellant has drawn my attention to Darshan Singh vs. State of Punjab 1991(2) SCT (PB &HR) 714 and has argued that if an appeal is dismissed without affording opportunity of hearing, then the order in the appeal is not sustainable.

24. A perusal of the ruling Darshan Singh vs. The State of Punjab (supra) shows that in that case the petitioner who was an Inspector of Police was dismissed from service by the Deputy Inspector General of Police by invoking the provisions of Article 311(2) of the Constitution of India. In that case it was held that in a case where pre-decisional enquiry is not held as contemplated under Article 311(2) of the Constitution of India, it is obligatory on the appellant/punishing authority to give personal hearing to the officer concerned. In the instant case, the position is entirely different. In this case an enquiry was held in accordance with rules. No copy of the order in appeal has been produced to show that no opportunity of hearing was given. Only a copy of the order in revision Ex.PB has been produced by the plaintiff. It is the specific case of the respondent that there is no provision of personal hearing in appeal or revision. Learned counsel for the appellant has not been able to show me any such provision in the police rules in accordance with which personal hearing is necessary at the time of appeal or revision of an order. The ruling Darshan Singh vs. State of Punjab (supra) is not

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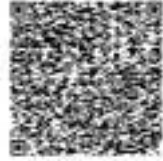


applicable to the facts of the present case, thus, I do not feel that the orders in appeal/revision are not sustainable because no opportunity of personal hearing was given to the appellant.

25. *Learned counsel for the appellant has lastly argued that the Superintendent of Police was the punishing authority in this case but the charge sheet was served by Deputy Supdt. of Police. He has argued that no such evidence was led before the learned trial court that the Deputy Superintendent of Police was authorised by Superintendent of Police to serve a charge sheet upon the plaintiff. Learned Counsel for the appellant has cited Ex. Constable Kehar Singh vs. The State of Haryana 1987(2) SLR (PB and HR) 134 and has argued that the charge sheet was not issued by the competent authority, therefore, enquiry was vitiated.*

26. *I have given my thoughtful consideration to the above arguments of learned counsel for the appellant. There is no dispute with the proposition of law laid down in the above cited ruling. However, it is pertinent to note that the impugned orders have not been challenged on the above ground by the plaintiff. The plaintiff-appellant to where pleaded in his plaint that the charge sheet was not issued by competent authority. Even when the plaintiff came in the witness box as PW-1 he nowhere deposed that the charge sheet was not issued by competent authority. Had the plaintiff taken any such plea or led any such evidence, the defendants would have certainly produced evidence about authorisation of issuance of charge sheet by the Deputy Supdt. of Police. Thus, in the absence of any plea or evidence by the plaintiff, I am unable to hold that the charge sheet was not issued by the competent authority.*

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27. For the reasons recorded above, I do not find any just reason to differ with the findings of the learned Civil Judge on issue No.1. On the other hand after scrutinising the evidence led by both the sides, I am of the opinion that the plaintiff has dismally failed to prove that the impugned orders are illegal and are liable to be set aside."

4. Learned counsel for the appellant further contended that the impugned judgments and decrees passed by both the learned Courts below are cryptic, erroneous, based on conjectures and surmises and non-application of mind and, therefore, are liable to be set aside. He also submitted that the regular departmental enquiry was not conducted in accordance with law and the principles of natural justice, have not been followed. The order passed by the departmental authorities vide which the appellant/plaintiff was dismissed from service, is wholly illegal, unjustified and unsustainable in the eyes of law and, therefore, the judgments and decrees passed by both the learned Courts below are liable to be set aside. He further submits that both the Courts below have erred in law in considering the fact that the authorities have not adhered to the provisions of Rule 16.38 and 16.2 of the Punjab Police Rules, 1934. He has also submitted that initiating regular departmental enquiry against the appellant without seeking approval of the District Magistrate as per Rule 16.38 of the Punjab Police Rules, 1934, would tantamount to non-compliance of the Rule, which has been held to be mandatory.

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5. Per contra, learned counsel for the State contended that the appellant/plaintiff remained absent from duty from 25.12.1989 to 28.12.1989 and then from 22.01.1990 to 27.03.1991, and after following the due procedure, he was dismissed from service as absence from duty by a member of the disciplined force is a gravest act of misconduct and thus, for long absence, the appellant/plaintiff was rightly dismissed from service.

6. I have heard learned counsel for the parties and perused the record.

7. The matter stands admitted on 31.10.2002.

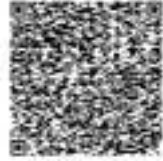
8. Rule 16.38 of the Punjab Police Rules, 1934, reads as under:-

"16.38. Criminal offences by police officers and strictures by Courts - Procedure regarding.-

(1) Immediate information shall be given to the District Magistrate of any complaint received by the Superintendent of Police, which indicates the commission by a police officer of a criminal offence in connection with his official relations with the public. The District Magistrate will decide whether the investigation of the complaint shall be conducted by a police officer, or made over to a selected Executive Magistrate.

(2) When investigation of such a complaint establishes a prima facie case, a judicial prosecution shall normally follow; the matter shall be disposed of departmentally only if the District Magistrate so orders for reasons to be recorded. When it is decided to proceed departmentally the

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procedure prescribed in rule 16.24 shall be followed. An officer found guilty on a charge of the nature referred to in this rule shall ordinarily be dismissed.”

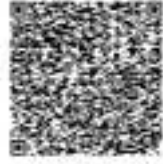
9. The concurrence of the District Magistrate for holding the departmental enquiry is needed where commission of criminal offence in connection with the officials relation with the public of the appellant is prima facie established, therefore, in the circumstances of the present case, there was no requirement of concurrence of the Deputy Magistrate.

10. This Court in “**Constable Pale Ram vs. State of Haryana and others passed in CWP No. 24413 of 2012**”, decided on 14.12.2012 held that “the said Rule i.e. Rule 16.38, comes into operation in case the punishing authority i.e. the Superintendent of Police instead of proceeding against the delinquent employee for judicial prosecution decides not to proceed for the same purpose and instead decides to take action departmentally. It is in this situation that the concurrence of the District Magistrate has to be obtained.”

11. Rule 16.2 of the Punjab Police Rules, 1934 reads as under:-

“**16.2. Dismissal.** – (1) 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.

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(2) If the conduct of an enrolled police officer leads to his conviction on a criminal charge and he is sentenced to imprisonment, he shall be dismissed:

Provided that a punishing authority may, in an exceptional case involving manifestly extenuating circumstances for reasons to be recorded and with the prior approval of the next higher authority impose any punishment other than that of dismissal:

Provided further that in case the conviction of an enrolled police officer is set aside in appeal or revision, the officer empowered to appoint him shall review his case keeping in view the instructions issued by the Government from time to time in this behalf.

(3) When a police officer is convicted judicially and dismissed, or dismissed as a result of a departmental enquiry, in consequence of corrupt practices, the conviction and dismissal and its cause shall be published in the Police Gazette. In other cases of dismissal when it is desired to ensure that the officer dismissed shall not be re-employed elsewhere, a full descriptive roll, with particulars of the punishments, shall be sent for publication in the Police Gazette.”

12. Admittedly, the plaintiff/appellant was proceeded departmentally for remaining absent from duty from 25.12.1989 to 28.12.1989 and then from 22.01.1990 to 27.03.1991, and after following the due procedure, he was dismissed from service and the appeal as well as the revision petition filed by the plaintiff/appellant, were rightly considered and rejected by the appellate and revisional authorities and rightly adjudicated upon by the Courts below.

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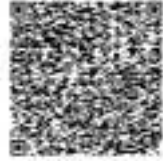
13. The Hon'ble Supreme Court in ***State of U.P. and others v. Ashok Kumar Singh and another, (1996) 1 Supreme Court Cases 302*** has held as under: -

“8. We are clearly of the opinion that the High Court has exceeded its jurisdiction in modifying the punishment while concurring with the findings of the Tribunal on facts. The High Court failed to bear in mind that the first respondent was a police constable and was serving in a disciplined force demanding strict adherence to the rules and procedures more than any other department. Having noticed the fact that the first respondent has absented himself from duty without leave on several occasions, we are unable to appreciate the High Court's observation that “his absence from duty would not amount to such a grave charge”. Even otherwise on the facts of this case, there was no justification for the High Court to interfere with the punishment holding that “the punishment does not commensurate with the gravity of the charge” especially when the High Court concurred with the findings of the Tribunal on facts. No case for interference with the punishment is made out.”

14. In ***State of Punjab v. Ram Singh Ex. Constable, AIR 1992 SC 2188***, the Hon'ble Supreme Court held to the following effect:

“7. Rule 16.2(1) consists of two parts. The first part is referable to gravest acts of misconduct which entails awarding an order of dismissal. Undoubtedly there is distinction between gravest misconduct and grave misconduct. Before awarding an order of dismissal it shall be mandatory that dismissal order should be made only when there are gravest acts of misconduct, since it

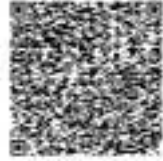
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impinges upon the pensionary rights of the delinquent after putting long length of service. As stated the first part relates to gravest acts of misconduct. Under General Clauses Act singular includes plural, “act” includes acts. The contention that there must be plurality of acts of misconduct to award dismissal is fastidious. The word “acts” would include singular “act” as well. It is not the repetition of the acts complained of but its quality, insidious effect and gravity of situation that ensues from the offending ‘act’. The colour of the gravest act must be gathered from the surrounding or attending circumstances. Take for instance the delinquent who put in 29 years of continuous length of service and had unblemished record; in thirtieth year he commits defalcation of public money or fabricates false records to conceal misappropriation. He only committed once. Does it mean that he should not be inflicted with the punishment of dismissal but be allowed to continue in service for that year to enable him to get his full pension. The answer is obviously no. Therefore, a single act of corruption is sufficient to award an order of dismissal under the rule as gravest act of misconduct.

8. The second part of the rule connotes the cumulative effect of continued misconduct proving incorrigibility and complete unfitness for police service and that the length of service of the offender and his claim for pension should be taken into account in an appropriate case. The contention that both parts must be read together appears to us to be illogical. Second part is referable to a misconduct minor in character which does not by itself warrant an order of dismissal but due to continued acts of misconduct would have insidious cumulative effect on service morale and may be a ground to take lenient view of giving an

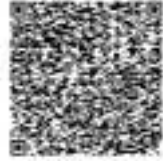
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opportunity to reform. Despite giving such opportunities if the delinquent officer proved to be incorrigible and found completely unfit to remain in service then to maintain discipline in the service, instead of dismissing the delinquent officer, a lesser punishment of compulsory retirement or demotion to a lower grade or rank or removal from service without affecting his future chances of re-employment, if any, may meet the ends of justice. Take for instance the delinquent officer who is habitually absent from duty when required. Despite giving an opportunity to reform himself he continues to remain absent from duty off and on. He proved himself to be incorrigible and thereby unfit to continue in service. Therefore, taking into account his long length of service and his claim for pension he may be compulsorily retired from service so as to enable him to earn proportionate pension. The second part of the rule operates in that area. It may also be made clear that the very order of dismissal from service for gravest misconduct may entail forfeiture of all pensionary benefits. Therefore, the word ‘or’ cannot be read as “and”. It must be disjunctive and independent. The common link that connects both clauses is “the gravest act/acts of misconduct”.

9. The next question is whether the single act of heavy drinking of alcohol by the respondent while on duty is a gravest misconduct. We have absolutely no doubt that the respondent, being a gunman having service revolver in his possession, it is obvious that he was on duty; while on duty he drunk alcohol heavily and became uncontrollable. Taking to drink by itself may not be a misconduct. Out of office hours one may take to drink and remain in the house. But being on duty in a disciplined service like police

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service, the personnel shall maintain discipline and shall not resort to drink or be in a drunken state while on duty.....”

15. A Division Bench of this Court in ***State of Haryana and others v. Gurdev Singh, 1981(3) SLR 130*** observed as under:

“5.To our mind, the cases with regard to misconduct on the part of the police officers while on duty have not to be interfered with by the Courts lightly unless it is found that the action has been taken wantonly or arbitrarily.”

16. This Court in ***RSA-2732 of 1997 – State of Punjab and others v. Chamkaur Singh – decided on 11.02.2015*** has held that act of absence from duty by a member of disciplined force without information shows the lack of discipline.

17. In view of the above, I find that both the Courts below have rightly upheld the dismissal of the appellant/plaintiff from service as the act of absence from duty by a member of a disciplined force is nothing but gravest act of misconduct. The term “misconduct” has to be given a wider meaning and any wrongful act or any act of delinquency would be “misconduct”, and certainly so, if it is subversive of discipline. The punishment so awarded is neither harsh nor disproportionate to the misconduct.

18. No other point has been urged. No question of law, much less substantial question of law arises for consideration in the appeal.

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19. Consequently, the concurrent findings recorded by the learned Courts below does not require any interference by this Court and the present appeal is hereby dismissed.
20. Pending applications, if any, stand disposed of accordingly.

15.05.2024
yakub

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No