

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(109)

**LPA-934-2023 (O&M)
Decided on : 21.02.2024**

Balwinder Singh

Versus

.....Appellant(s)

State of Punjab & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present:- Mr.Ajay Singh, Advocate, for
Mr.S.K.Banga, Advocate for the appellant.

Mr.Saurav Khurana, Addl.A.G., Punjab.

G.S. Sandhawalia, ACJ (Oral)

CM-2392-LPA-2023

1. Application for condoning the delay of 104 days in filing the present appeal is allowed in view of the averments made in the application, duly supported by affidavit of the appellant. Delay of 104 days in filing the appeal is hereby condoned.

2. CM stands disposed of.

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3. Consideration in the present appeal is to the judgment passed by the Learned Single Judge in CWP-16904-2017 whereby the writ petition was dismissed on 12.01.2023 and the order of termination of a police personnel who had proceeded on Ex-India Leave from 16.03.2008 to 14.04.2008 had not been interfered with. Resultantly, after departmental proceedings, his services were terminated vide order dated 29.12.2008 (Annexure P-1) on account of unauthorized absence of 259 days, which is also subject matter of challenge herein. The appeal filed was dismissed being barred by delay and the mercy petition also stood rejected.

4. The argument raised before the Learned Single Judge was that there was a dispute between the appellant's sister and her husband which defence was exposed by reproducing the request for extension of leave dated 14.04.2008 wherein it was noted that 90 days more Ex-India Leave may be granted to attend the marriage of a friend. In such circumstances, being a member of Disciplined Forces who is under an obligation to report back to the duty after period of leave granted expired, interference in the termination order has not been done by the Learned Single Judge.

5. We are of the considered opinion that it is settled principle by various judgments that a man in uniform has to maintain greater discipline and the act of remaining absent from duty is a gravest act of misconduct. Reliance can be placed upon the judgment in **State of Punjab & others Vs. Mohinder Singh, 2005 (12) SCC 182** wherein the Apex Court allowed the appeal by noticing that there was absence of 5 ½ months and it was reprehensible conduct by the Constable. The basic principle which has been time and again laid down is that remaining absent from duty after the sanctioned leave by a uniformed personnel is fatal. Keeping in view the fact that the appellant voluntarily kept away from his duties which were very much required by his department and the fact that the matter was duly enquired upon. Copy of the notice was sent to his foreign address through registered post to which he had not replied and also copy had been sent to his father which would be clear from the order of dismissal.

6. In view of the above discussion, the present appeal is hereby dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

February 21st, 2024
Sailesh

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No