



CWP-12732-2002 (O&M)

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

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CWP-12732-2002 (O&M)

Date of Decision: 12.11.2025

Ram Phal Tomar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Kamal Sharma, Advocate and
Mr. Raja Sharma, Advocate for the petitioner
Ms. Rajni Gupta, Additional Advocate General, Haryana

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of orders dated 01.09.1998 and 25.04.2000 whereby he was dismissed from service.

2. On 27.10.2025, this Court passed the following order: -

From the perusal of record, it appears that respondent initiated five inquiries against petitioner alleging absence from duty. The documents are further disclosing that chargesheet with respect to absence from duty during January' 1986 to December' 1986 was withdrawn vide order dated 09.01.1992. Chargesheet dated 25.07.1990 for absence from duty from April' 1989 to April' 1990 was withdrawn vide order dated 13.01.1991. The impugned order was passed for absence from duty from 05.04.1991 to 15.09.1991 (164 days). In the impugned order, it is also noticed that petitioner remained absent from duty from 27.10.1997 to 01.03.1998 and 16.03.1998 to 09.04.1998. He also remained absent from 24.05.1995 to 31.05.1996. Besides aforesaid period, he



remained absent for 355 days and an inquiry was initiated against him. Inquiry for absence from duty during May' 1995 to May' 1996 was also initiated.

Learned State counsel seeks time to file status report with respect to alleged absence period.

Adjourned to 12.11.2025."

3. In compliance of aforesaid order, the respondent has filed status report by way of affidavit dated 11.11.2025 of Sh. Himanshu Garg, I.P.S. Assistant Inspector General of Police (Administration), Haryana. The same is taken on record. Registry is directed to tag the same at an appropriate place.

4. The relevant extracts of the aforesaid affidavit are reproduced as below: -

"4. That it is submitted that prior to dismissal of the petitioner, a charge sheet was issued to him vide U.O. No. 301/SA-3 dated 01.05.1987 and departmental enquiry was conducted for his willful absence on various occasions in the year 1986. In this departmental enquiry, the petitioner was exonerated from the charges by the enquiry officer as the petitioner produced medical certificates for the periods he remained absent from duty. Accordingly, the Punishing Authority also exonerated the petitioner of the charges vide order No. 14144-46/B-5 dated 06.10.1997.

5. That it is submitted that another charge sheet was issued to the petitioner vide U.O. No. 7184/SA-3 dated 25.07.1990 and departmental enquiry was conducted against him for willful absence on various occasions in the year 1989-90. The petitioner was exonerated by the enquiry officer vide enquiry report dated 13.01.1991. However, the prosecution was not allowed to lead its case and witnesses were examined without the aid of presenting officer, hence, the Punishing Authority ordered to allow prosecution to lead the defence and conduct department enquiry vide memo no.



8996/B-5 dated 07.04.1992. Therefore, the departmental enquiry was conducted again in which the petitioner was found guilty vide dated 16.09.97 by the enquiry officer. In the meantime, he was dismissed from service in another departmental enquiry for his willful absence of 164 days 05.04.91 to 15.09.91 and the above said departmental enquiry for absence period of 1989-90 was kept in abeyance.

6. That it is submitted that another charge sheet was issued to the petitioner vide this office no. 2424/B-5 dated 29.01.92 for willful absence from 05.04.1991 to 15.09.1991 (164 days) and Superintendent of Police/Computer was appointed as enquiry officer. The enquiry officer completed the enquiry and submitted his report on 19.03.1993 and on the basis of this report the petitioner was dismissed from service vide this office order dated 31.08.1998 issued vide No. 14561/B-5 dated 01.09.1998. It is this report which formed the basis of dismissal order dated 31.08.1998.

7. That it is submitted that prior to passing of dismissal order of the 2025 petitioner, he again remained absent for a total period of 995 days on various occasions from 30.08.1993 to 18.06.97 (this period includes 24.05.1995 to 31.05.1996) for which a charge sheet was issued to him vide this office memo. No. 11856/B-5 dated 24.07.1997 and for this a departmental enquiry was being conducted by SP/OSD rules. However, due to his dismissal from service, this D.E. was also kept in abeyance.

8. That it is submitted that the petitioner again remained absent from duty for a total period of 264 days on various occasions from 10.10.1997 to 31.07.1998 (this period includes 27.10.1997 to 01.03.1998 and 16.03.1998 to 09.04.1998). However, no departmental action was initiated against him for this absence period.”

5. From the perusal of above quoted paragraphs of the affidavit, it is evident that petitioner was a habitual absentee. He was subjected to multiple departmental inquiries. On two occasions, he was exonerated,



however, was dismissed in the third inquiry. He was also facing other inquiries on account of absence from duty. The petitioner is raising technical issues.

6. Learned counsel for the petitioner submits that he is not in contact with his client.

7. From the perusal of record, it is evident that petitioner was a habitual absentee and facing multiple inquiries.

8. Hon'ble Supreme Court in ***Ex Sepoy Madan Prasad v. Union of India and others, (2023) 9 SCC 100*** while advertng to disciplinary action in case of absence from duty has held that the Court should not set aside order of dismissal where delinquent is part of Armed Forces and remained absent from duty. The relevant extracts of the judgment read as: -

“11. It is apparent from the above table that the appellant was a habitual offender. There were four red ink entries and one black ink entry against him before the present incident cited at Serial No. (f) above. Such gross indiscipline on the part of the appellant who was a member of the Armed Forces could not be countenanced. He remained out of line far too often for seeking condonation of his absence of leave, this time, for a prolonged period of 108 days which if accepted, would have sent a wrong signal to others in service. One must be mindful of the fact that discipline is the implicit hallmark of the Armed Forces and a non-negotiable condition of service.

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18. For the aforesaid reasons, we do not find any infirmity in the impugned judgment [Madan Prasad v. Union of India, 2015 SCC OnLine AFT 887] passed by the AFT. The appellant had been taking too many liberties during his service and despite several punishments awarded to him



earlier, ranging from imposition of fine to rigorous imprisonment, he did not mend his ways. This was his sixth infraction for the very same offence. Therefore, he did not deserve any leniency by infliction of a punishment lesser than that which has been awarded to him.

19. Accordingly, the present appeal is dismissed as meritless, while upholding the impugned judgment [Madan Prasad v. Union of India, 2015 SCC OnLine AFT 887] . The parties are left to bear their own costs.”

9. Scope of interference while exercising jurisdiction under Articles 226/227 of the Constitution of India in disciplinary proceedings is very limited. The Court has no power to look into quantum of sentence/punishment unless and until Court finds that sentence awarded is disproportionate to alleged offence. It is further settled proposition of law that High Court while exercising its jurisdiction under Article 226 of Constitution of India can look into the procedure followed by authorities. In case, it is found that enquiry officer or disciplinary authority has not considered any evidence on record or misread the evidence or procedure as prescribed by law has not been followed, the Court can interfere. A two-judge Bench of Hon'ble Supreme Court in ***Union of India and others v. Subrata Nath, 2022 SCC OnLine SC 1617*** while advertng with scope of interference under Article 226 of the Constitution of India in disciplinary proceedings has held that departmental authorities are fact finding authorities. On finding the evidence to be adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct.



10. A Division Bench of this Court while dealing with similar issue vide judgment dated 21.02.2024 passed in ***Balwinder Singh v. State of Punjab and others, LPA No.934 of 2023*** has held that act of remaining absent from duty for a man in uniform is a gravest act of misconduct. The relevant extracts of the judgment read as:

“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 5½ 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.”

11. In the instant case, the authorities have duly followed prescribed procedure. There is proper appreciation of evidence on record. The petitioner despite being member of disciplined Police Force was a habitual absentee. He was subjected to multiple departmental inquiries. He did not mend his behaviour. On two occasions, he was exonerated, however, was dismissed in the third inquiry. In these facts and circumstances, this Court does not find it appropriate either to interfere with findings of authorities or look into quantum of punishment awarded to him.

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12. In the wake of above discussion and findings, this Court is of the considered opinion that present petition being bereft of merit deserves to be dismissed and accordingly dismissed.

13. Pending application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

12.11.2025*Mohit Kumar*

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