



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

**CWP No. 11565-2010(O&M)
Date of Decision: 08.08.2025**

Amarjeet Singh

....Petitioner

VS.

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Vikas Bali, Advocate
for the petitioner

Ms. Rajni Gupta, Addl. A.G., Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of:

(i) order dated 24.04.2007 (Annexure P-1) whereby he was dismissed from service;

(ii) order dated 18.10.2007 (Annexure P-2) whereby his appeal against the dismissal order was dismissed;

(iii) order dated 07.06.2008 (Annexure P-3) whereby his revision was dismissed.

2. The petitioner joined Haryana Police Force on 07.09.1988 as Constable. He remained absent from duty during 23.08.2005 to 10.05.2006. The disciplinary authority initiated departmental proceedings. Regular



departmental inquiry as contemplated by Punjab Police Rules, 1934, as applicable to State of Haryana (for short 'PPR') read with Article 311(2) of the Constitution of India was conducted. He was found guilty of misconduct by inquiry officer. The disciplinary authority found itself in agreement with inquiry report and vide order dated 24.04.2007 dismissed him from service. He in terms of Rule 16.29 of PPR preferred an appeal which came to be dismissed vide order dated 18.10.2007 passed by Appellate Authority. There is no provision for second appeal. He in terms of Rule 16.32 of PPR preferred revision petition before Director General of Police who vide order dated 07.06.2008 dismissed the same.

3. Mr. Vikas Bali, Advocate submits that petitioner joined Haryana Police Force as Constable. By the date of passing impugned order, he had already completed service of more than 18 years. Thus, authorities were bound to take lenient view instead of passing harsh order of dismissal from service. The impugned orders were passed contrary to the spirit of Rule 16.2 of Punjab Police Rules, 1934. As per said Rule, punishment of dismissal from service can be awarded in case officer is guilty of gravest act of misconduct or the cumulative effect of continued misconduct is proving his incorrigibility and complete unfitness for the police service. There is no such finding in the impugned orders. The authorities have not considered petitioner's claim for pension. Any order which is passed without considering length of service and claim for pension is bad in the eye of law and contrary to Rule 16.2 of PPR.

4. Per contra, learned State counsel submits that petitioner was a habitual absentee. On account of his mis-conduct, he was multiple times



subjected to punishment which included stoppage of 18 annual increments out 20 with permanent effect. The Disciplinary Authority dismissed him from service after considering his past record. There was no possibility of improvement of his conduct. Thus, authorities under compelled circumstances decided to dismiss him from service.

5. I have scrutinised the record and heard the arguments of both sides.

6. From the perusal of record, it is evident that petitioner has been dismissed from service on account of absence from duty for 24 days. It was not his first misconduct. He was a habitual absentee. The Disciplinary Authority while passing impugned order has noticed his past record. He was subjected to punishment on several occasions which included stoppage of 18 annual increments out 20 with permanent effect. This shows that despite repeated opportunities, the petitioner never attempted to improve himself. He was part of Police Force where discipline is of paramount consideration.

7. 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.”

8. A Division Bench of this Court while dealing with similar issue in **Balwinder Singh versus State of Punjab and others (LPA-934- 2023, decided on 21.02.2024)**, 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.”

9. The respondent, in reply, has narrated that petitioner is an indisciplined officer and habitual absentee. The relevant extracts of the reply read as:-

“He served Haryana Police Telecommunication for 18 years and 7 months and 17 days in the rank of Constable. He remained on Leave without Pay for 601 days on various days and total suspension period of the petitioner treated as such was 1265 days (total non-qualifying service 1866 days). His net qualifying service was 13 years, 6 months and 06 days. During his service career, he remained indisciplined, habitual absentee and habitual of consuming liquor at duty hours. As per his Character Roll, there is no positive entry therein regarding his good performance and performing his duty sincerely, whereas there are 21 adverse entries in his service book, in which he has been awarded the punishment of Censure 13 times on account of misbehaving with the Senior Officials under the influence of liquor; missing his Identity Card and remaining willful absent from his duty time and again. It is pertinent to mention here that as per his service record eighteen annual increments out of 20 annual increments of the petitioner have been permanently stopped vide various orders passed by the competent authority, whereas his



two annual increments have been stopped with temporary effect. During his posting at Wireless Station in Police Station Guhla, District Kaithal a case was registered against him vide FIR No. 119 dated 04.06.2006 under Section 61/1/14 of Excise Act-P.S. Guhla, District Kaithal on account of consuming liquor during duty hours. The Ld. Court of SDJM Guhla vide its order dated 06.02.2009 sentenced him to pay fine of Rs. 5000/- for the commission of offence punishable U/S 68 of Punjab Excise Act. In default of payment of fine, he is further sentenced to undergo simple imprisonment for a period of 15 days. Fine was paid by him. Besides this, on account of remaining willful absent from his duty for 601 days on various dates the competent authority sanctioned his absent period as leave without pay.”

10. 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 punishment unless and until it finds that awarded punishment 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 to 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. The Hon'ble Supreme Court has considered its judicial precedents including a two-judge Bench judgment in **Union of India and Others v. P. Gunasekaran (2015) 2 SCC 610**.

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 did not mend his behaviour in spite of being subjected to punishment on multiple occasions. 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.

12. In the backdrop, this Court is of the considered opinion that the present petition being bereft of merit deserves to be dismissed and accordingly hereby dismissed.

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

08.08.2025
paramjit

(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	