

**CWP-4762-2009**

-1-

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

201**CWP-4762-2009****Date of Decision:19.08.2025****JAGJIT SINGH**

...Petitioner

Vs.

STATE OF PUNJAB AND ORS

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Aman Mittal, Advocate
for the petitioner

Mr. Aman Dhir, Deputy Advocate General, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Article 226/227 of the Constitution of India is seeking setting aside of:

- i. Order dated 07.04.1999 (Annexure P-5) whereby he was dismissed from service;
- ii. Order dated 19.01.2000 (Annexure P7) whereby his appeal against the dismissal was dismissed;
- iii. Order dated 02.11.2007 (Annexure P-9) whereby his revision petition was dismissed;
- iv. Order dated 10.09.2008 (Annexure P-11) whereby his revision petition was dismissed.

2. The petitioner joined Punjab Police Force in 1989 as Constable. He remained absent from duty during 14.08.1994 to 07.04.1995, 09.07.1997 to 10.01.1998 and 14.01.1999 to 28.03.1999.

**CWP-4762-2009**

-2-

The disciplinary authority initiated departmental proceedings qua absence from 09.07.1997 to 10.01.1998. Regular departmental inquiry as contemplated by Punjab Police Rules, 1934 (in short “PPR”) 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 07.04.1999 dismissed him from service. He preferred an appeal which came to be dismissed vide order dated 19.01.2000. He preferred revision petition before Director General of Police who vide order dated 10.09.2008 dismissed the same. Gist of allegations and opinion of authorities as discussed in impugned order dated 19.01.2000 is reproduced as below:

“2. The appellant while posted at Patiala was sent on temporary duty to Fatehgarh Sahib, where he absented himself from duty on 9.7.97. A DDR No.3 dated 9.7.97 to this effect was recorded in the roznamcha. He reported back for duty vide DDR No.21 dated 10.1.98 after having remained absent from duty for a period of 185 days and 12 hours. He was dealt with departmentally and the Enquiry Officer held him guilty of the charge. Ultimately, the punishment of dismissal from service was awarded to him as per the impugned order.

3. The appellant has assailed the impugned order on the grounds that his absence from duty was neither willful nor intentional, but it was due to his own illness that he was not given the proper opportunity to defend his case; that he was also not afforded the opportunity to cross examine the witnesses; that punishing authority has failed to pass speaking order. In the end, the appellant has prayed that he is the only bread earner of his family, as such he may kindly be reinstated in service and his appeal be accepted.

4. I have carefully gone through the appeal,



departmental enquiry file and other relevant record of this case and find that the enquiry proceedings have been drawn as per rule and procedure. His main plea of the illness is not tenable. If the appellant was actually ill, he should have appeared before his senior officers and got his leave sanctioned. But, he did not do so. Even, he has failed to send any intimation to the department. His next plea that no opportunity to cross examine the witnesses or defend the case was given to him, is also incorrect; as a scrutiny of the departmental enquiry file reveals that statements of PWs were recorded in his presence and he was also allowed to cross examine the witnesses. Further a show cause notice for the proposed punishment of dismissal from service, along with a copy of findings, was duly delivered to him on 16.3.99 under his signatures. The appellant has miserably failed to prove his innocence. Such, long absence from duty amounts to a grave misconduct and cannot be tolerated in a disciplined force. Two Parwana's dated 9.6.99 and 2.12.99 were issued to the appellant with the direction to appear before the undersigned and explain his position. But, he did not avail of the opportunity of personal hearing. So, it is crystal clear that the appellant is not serious about his job. Therefore, the punishment awarded to him is quite commensurate with the gravity of charge duly proved on record. In view of the above, the appellant deserves no leniency. I, therefore, consider and reject the appeal of Ex. Constable Jagjit Singh No. 23/KHN being devoid of force as well as on merit."

3. Learned counsel for the petitioner submits that petitioner joined Punjab Police Force as Constable. By the date of passing impugned order, he had already completed service of about 10 years. Thus, authorities were bound to take lenient view instead of passing harsh

**CWP-4762-2009**

-4-

order of dismissal from service. The impugned orders were passed contrary to spirit of Rule 16.2 of PPR. 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 habitual absentee/offender. On account of his mis-conduct, he was awarded punishment of censure for absence from 14.08.1994 to 07.04.1995. 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 scrutinized 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 185 days. It was not his first misconduct. He was habitual absentee. The Disciplinary Authority while passing impugned order has noticed his past record. He was subjected to punishment of censure on previous occasion. He remained absent from duty for 185 days during 09.07.1997 to



CWP-4762-2009

-5-

10.01.1998 and thereafter for 73 days during 14.01.1999 to 28.03.1999.

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 adverting 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.

XXXX

XXXX

XXXX

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. 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.

10. 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 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.

11. In the backdrop, this Court is of the considered opinion that



CWP-4762-2009

-8-

the present petition being bereft of merit deserves to be dismissed and accordingly hereby dismissed.

12. Pending application(s), if any stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

19.08.2025
Deepak DPA

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No