



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

CWP-10343-2016

Date of Decision: 23.07.2025

Kanwaljit Singh (Deceased through LRs)

...Petitioner

Vs.

State of Punjab and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of orders dated 20.01.2012 (Annexure P-7), 17.11.2006 (Annexure P-6), 11.08.2006 (Annexure P-5) and 17.06.2005 (Annexure P-2).
2. The instant petition was filed by Kanwaljit Singh son of Sh. Mukhtar Singh. During the pendency of petition, he has passed away and his legal representatives are on record who are pursuing the matter.
3. The deceased joined Punjab Police as Constable in 1991. He suffered injuries in 1994. He applied for casual leave from 13.09.2004 to 18.09.2004. He reported back on 16.01.2005 means there was delay of 119 days. The respondent initiated departmental proceedings against him. The Inquiry Officer reported against him. The Disciplinary Authority served show cause notice upon him calling upon to show cause as to why

punishment of dismissal from service should not be awarded. He replied to show cause notice. The Disciplinary Authority vide order dated 07.06.2005 awarded punishment of dismissal from service. He unsuccessfully preferred appeal as well as revision before Director General of Police. He also filed mercy petition which came to be dismissed.

4. Mr. Vipin Mahajan, Advocate submits that deceased was issued show cause notice with respect to absence from duty, however, while passing order of dismissal from service, his past record was considered which was not permissible by law. It is settled proposition of law that past service record cannot be considered while imposing punishment until and unless employee is confronted with past service record.

5. *Per contra*, Mr. Aman Dhir, DAG, Punjab submits that petitioner availed his remedies in 2006. He filed mercy petition which was not even maintainable and came to be dismissed in 2012. He approached this Court in 2016. He was a habitual absentee. During his service period, he remained absent on 832 days and there were 44 bad entries in his service record. The authorities were left with no other option except to dismiss him from service.

6. I have heard learned counsel for the parties and perused the record with their able assistance.

7. From the perusal of record, it is evident that petitioner was awarded punishment of dismissal from service on account of absence from duty. He was a habitual absentee. His fifteen years' service for

increment was forfeited during his 14 years' service. He was punished on 44 occasions.

8. The petitioner was concededly a part of disciplined force and he was bound to strictly follow the rules and regulations. Armed Forces cannot retain any undisciplined member. It is not case of the petitioner that he, for the first time, committed alleged offence and was subjected to harsh punishment. Had the alleged offence been his first offence, this Court could consider principle of proportionality and ask the respondents to reconsider quantum of punishment, however, as noted above, the petitioner was a habitual offender and was punished more than once. The case of the petitioner is squarely covered by judgment of Apex Court in *Ex Sepoy Madan Prasad v. Union of India and others*, (2023) 9 SCC 100. 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. In the wake of above discussion & findings and afore-cited judgment, this Court is of the considered opinion that present petition being bereft of merit deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

23.07.2025
Prince Chawla

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