



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

CWP-15126-2015

Reserved on: 28.11.2025

Pronounced on: 29.11.2025

Harinder Singh

...Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. R.S. Randhawa, Senior Advocate with
Mr. Swayam Bansal, Advocate,
Ms. Tarranum Madan, Advocate and
Mr. K.S. Riar, 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 30.05.2013 and 29.07.2014 whereby he was dismissed from service.

2. The petitioner joined Punjab Police as Constable on 26.05.2006. He was dismissed from service vide order dated 15.05.2007. The order of dismissal from service was set aside and he was reinstated. He was subjected to multiple departmental inquiries and awarded punishments. By order dated 06.01.2011, he was awarded punishment of forfeiture of two increments with permanent effect. By orders dated 15.03.2011 and 21.10.2011, he was awarded punishment of forfeiture of one increment each with permanent effect. He was awarded punishment

of forfeiture of two increments with permanent effect vide order dated 18.11.2011. He remained absent from duty w.e.f. 14.01.2012 to 21.02.2012 (39 Days). He was awarded punishment of dismissal from service vide order dated 18.06.2012. He preferred an appeal and Appellate Authority reduced his punishment from dismissal from service to forfeiture of one year approved service with permanent effect. The Revisionary Authority exercising power conferred by Rule 16.28 of Punjab Police Rules, 1934 (for short 'PPR') reviewed order dated 05.01.2013 passed by Appellate Authority. The said Authority issued show cause notice calling upon the petitioner to show cause as to why he should not be dismissed from service in view of his past conduct. The Reviewing Authority vide order dated 30.05.2013 reviewed order passed by Appellate Authority and ordered to dismiss the petitioner from service. He preferred an appeal before Appellate Authority which dismissed his appeal vide order dated 29.07.2014.

3. Learned Senior counsel representing the petitioner submits that petitioner was not confronted with past adverse record before passing impugned orders. As per Rule 16.24(1)(vii) of PPR, the respondent was duty bound to supply adverse past record and at least gist of the record before passing impugned order of dismissal from service. In the show cause notice which was issued by Reviewing Authority, there was mere averment that petitioner's past record is bad. There was nothing in the show cause notice disclosing past record. Mere averment was not sufficient. The respondent was duty bound to confront the petitioner with past adverse record.

4. *Per contra*, learned State counsel submits that petitioner was

a habitual absentee. He even did not complete his basic training. He was subjected to punishment on multiple occasions. There was no possibility of improvement in his behaviour. He was an incorrigible Police Officer, thus, authorities were bound to dismiss him from service.

5. Pursuant to order dated 26.11.2025 of this Court, learned State counsel produced copy of show cause notice dated 17.05.2012 issued by Disciplinary Authority before passing order of dismissal from service. Copy of the same is taken on record.

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 dismissed from service vide order dated 18.06.2012. He preferred an appeal and Appellate Authority vide order dated 05.01.2013 converted the punishment of dismissal from service into forfeiture of one increment with permanent effect. The Inspector General of Police, Patiala (IGP) invoking power conferred by Rule 16.28 of PPR issued a show cause notice dated 26.03.2013 calling upon the petitioner to show cause as to why he should not be dismissed from service. He filed reply to said show cause notice. The Reviewing Authority-IGP did not agree with his submissions and ordered to dismiss him from service for absence from duty.

8. The sole ground of petitioner to assail impugned order is that respondent passed impugned order without complying with mandate of Rule 16.24(1)(vii) of PPR. The respondent was bound to confront the petitioner with adverse material before passing dismissal order.

9. The respondent passed impugned order exercising power

conferred by Rule 16.28 of PPR. For the ready reference, relevant extracts of Rule 16.24 and Rule 16.28 of PPR are reproduced as below:

“16.24. Procedure in departmental enquiries. –

(1) The following procedure shall be followed in departmental enquiries –

(i) The police officer accused of misconduct shall be brought before an officer empowered to punish him, or such superior officer as the Superintendent may direct to conduct the enquiry. That officer shall record and read out to the accused officer a statement summarizing the alleged misconduct in such a way as to give full notice of the circumstances in regard to which evidence is to be recorded. A copy of the statement will also be supplied to the accused officer free of charge.

(ii) If the accused police officer at this stage admits the misconduct alleged against him, the officer conducting the enquiry may proceed forthwith to frame a charge, record the accused officer's plea and any statement he may wish to make in extenuation and to record a final order, if it is within his power to do so, or a finding to be forwarded to an officer empowered to decide the case. When the allegations are such as can form the basis of a criminal charge, the Superintendent shall decide at this stage, whether the accused shall be tried departmentally first and judicially thereafter.

(iii) If the accused police officer does not admit the misconduct, the officer conducting the enquiry shall proceed to record such evidence, oral and documentary, in proof of the accusation, as is available and necessary to support the charge. Whenever possible, witnesses shall be examined direct, and in the presence of the accused, who shall be given opportunity to take notes of their statements and cross-examine them. The officer conducting the enquiry is empowered, however, to bring on to the record the statement of any witness whose presence cannot, in the opinion of such officer, be procured without undue delay and expense or inconvenience, if he considers such

statement necessary, and provided that it has been recorded and attested by a police officer superior in rank to the accused officer or by a magistrate, and is signed by the person making it. This statement shall also be read out to the accused officer and he shall be given an opportunity to take notes. The accused shall be bound to answer any questions which the enquiring officer may see fit to put to him with a view to elucidating the facts referred to in statements or documents brought on the record as herein provided.

(iv) When the evidence in support of the allegations has been recorded the enquiring officer shall, (a) if he considers that such allegations are not substantiated, either discharge the accused himself, if he is empowered to punish him, or recommend his discharge to the Superintendent, or other officer, who may be so empowered, or (b) proceed to frame a formal charge or charges in writing, explain them to the accused officer and call upon him to answer them.

(v) The accused officer shall be required to state the defence witnesses whom he wishes to call and may be given time, in no case exceeding forty-eight hours, to prepare a list of such witnesses, together with a summary of the facts as to which they will testify. The enquiring officer shall be empowered to refuse to hear any witnesses whose evidence he considers will be irrelevant or unnecessary in regard to the specific charge framed. He shall record the statements of those defence witnesses whom he decides to admit in the presence of the accused, who shall be allowed to address questions to them, the answers to which shall be recorded; provided that the enquiring officer may cause to be recorded by any other police officer superior in rank to the accused the statement of any such witness whose presence cannot be secured without undue delay or inconvenience, and may bring such statement on to the record. The accused may file documentary evidence and may for this purpose be

allowed access to such files and papers, except such as form part of the record of the confidential office of the Superintendent of Police, as the enquiring officer deems fit. The supply of copies of documents to the accused shall be subject to the ordinary rules regarding copying fees.

(vi) At the conclusion of the defence evidence, or, if the enquiring officer so directs, at any earlier stage following the framing of a charge, the accused shall be required to state his own answer to the charge. He may be permitted to file a written statement and may be given time, not exceeding one week, for its preparation, but shall be bound to make an oral statement in answer to all questions which the enquiring officer may see fit to put to him, arising out of the charge, the recorded evidence, or his own written statement.

(vii) The enquiring officer shall proceed to pass orders of acquittal or punishment, if empowered to do so, or to forward the case with his finding and recommendations to an officer having the necessary powers. Whenever the officer passing the orders of punishment proposes to take into considerations the adverse entries on the previous record of the accused police officer, he shall provide reasonable opportunity to the defaulter to defend himself; and a copy or at least a gist of those entries shall be conveyed to the defaulter and he shall be asked to give such explanation as he may deem fit. The explanation furnished by the defaulter shall be taken into account by the officer before passing orders in the case.”

[Emphasis supplied]

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“Rule 16.28 Powers to review proceedings. –

(1) The Inspector General, a Deputy Inspector-General, and a Superintendent of Police may call for the records of awards made by their Subordinates and confirm, enhance, modify or annul the same, or make further investigation or direct such to be made before

passing orders. The State Government may also call for the records and review the awards made by the Inspector General of Police, Punjab or by any other authority subordinate to him.

(2) If an award of dismissal is annulled, the officer annulling it shall state whether it is to be regarded as suspension followed by reinstatement, or not. The order should also state whether service previous to dismissal should count for pension or not.

(3) In all cases in which officers purpose to enhance an award they shall, before passing final orders, give the defaulter concerned an opportunity of showing cause, either personally or in writing, why his punishment should not be enhanced.”

10. From the perusal of Rule 16.24(1)(vii) of PPR, it is evident that whenever the Officer passing order of punishment proposes to take into consideration adverse entries on the previous record of the accused Police Officer, he shall provide reasonable opportunity to the defaulter to defend himself and a copy or at least a gist of those entries shall be conveyed to the defaulter. Rule 16.24 of PPR is applicable at the stage of inquiry and order of punishment by Disciplinary Authority. Power of review under Rule 16.28 of PPR is an independent power. The petitioner is right in claiming that as per Rule 16.24 of PPR, if adverse entries are proposed to be taken into consideration while passing order of punishment, the Disciplinary Authority is bound to supply at least gist of those entries.

In the case in hand, the respondent-Disciplinary Authority issued show cause notice prior to passing order of dismissal from service. In the show cause notice, the previous record of the petitioner was duly discussed and petitioner was called upon to put forth his stand. The

relevant extracts of show cause notice dated 17.05.2012 are reproduced as below:

“This departmental inquiry after completion has been presented before me for passing final order. I have carefully perused the entire evidence adduced in departmental proceeding, relevant record and inquiry report of inquiry officer to which I agree. Besides this, I have meticulously perused your past service record upon which it is found that on 26.05.2006 you were recruited as Constable in the department. You were awarded 180 days sentence in NDPS and thrice punishment for negligence and also got forfeited five years annual service for annual increments on permanent basis. From this, it is established that you in your short service span is habitual of being absent time and again and are incorrigible employee. Keeping in view your past record and report of inquiry officer, I have formed an opinion that why you should not be dismissed from the service of police department and absence period be treated as no work no pay. But before issuing any order regarding this proposed punishment, I intend to give you an opportunity to present your defence. You are directed to submit your written reply to me within 10 days from the receipt of show cause notice. If desire, during this period you can also submit your defence before me by appearing in person. It is also made clear to you that if no written reply is received from you within the stipulated period or you remain unable to appear in person before me, then final order of proposed punishment will be passed without giving you further opportunity.”

[Emphasis supplied]

The above noted contents of show cause notice make it clear that petitioner was duly informed of his past record. He cannot claim that he was not informed of his past record. The Disciplinary Authority passed order of dismissal from service after considering alleged mis-conduct as

well as past service record. The Appellate Authority taking very lenient view reinstated him. The Reviewing Authority while exercising power conferred by Rule 16.28 of PPR issued show cause notice. In the show cause notice, past record was not elaborated, however, it was noticed that petitioner's past record is bad. In view of show cause notice issued by Disciplinary Authority, it cannot be concluded that petitioner was deprived from opportunity to put forth his stand with respect to past service record.

11. The petitioner joined service in 2006. He was dismissed from service vide order dated 15.05.2007. He was reinstated. He was subjected to punishment of forfeiture of two years' service by order dated 06.01.2011, one year service by order dated 15.03.2011, one year service by order dated 21.10.2011, two years' service by order dated 18.11.2011. In other words, during a short span of 05 years, he was subjected to major penalty on five occasions. He did not mend his behaviour. He was a habitual absentee. The Disciplinary Authority considering his past record formed an opinion that he is an incorrigible Officer. He is not fit for the job.

12. 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.”

13. 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 advertent 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.

14. 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.”

15. In the instant case, the authorities have duly followed prescribed procedure. 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. 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.

16. 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.

(JAGMOHAN BANSAL)
JUDGE

29.11.2025
Prince Chawla

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