

2025:PHHC:123793-DB

LPA-2274-2025 (O&M)
Date of Decision: 10.09.2025

Arshad

...Appellant

Vs.

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. Mohammad Arshad, Advocate for the appellant.

ASHWANI KUMAR MISHRA, J. (Oral)

1. Vide order impugned in the present appeal, learned Single Judge has refused to interfere with the order of dismissal passed against the appellant by the disciplinary authorities.

2. It transpires that disciplinary action was initiated against the appellant, who was working as a Constable in Haryana Police Force on the charge of unauthorized absence. He had proceeded on one week leave on 12.01.2023 but did not report for joining even after expiry of the leave period. The appellant was placed under suspension on 01.09.2023. An Inquiry Officer was appointed but as the appellant did not participate in the proceedings, the inquiry continued ex parte.

3. Thereafter, show cause notice was issued to the appellant noticing that he had remained absent for more than 40 occasions and was subjected to multiple major and minor punishments.

4. Before the learned Single Judge the argument was that the spirit of Rule 16.2 of the Punjab Police Rules, 1934, stands violated on account of dismissal order passed against the appellant.

5. Learned Single Judge has dismissed the writ petition after noticing the facts of the case according to which the appellant had remained absent on 42 occasions during his short service period of 12 years. Four major punishments and penalty of stoppage of nineteen increments with permanent effect, has already been awarded to the appellant. The factual aspects noticed by the learned Single Judge in Paras No.4 to 6 are reproduced herein after:-

“4. The petitioner concededly remained absent from duty for more than 300 days which compelled the authorities to pass order of dismissal from service. The Disciplinary Authority as well as Appellate Authority has considered past conduct of the petitioner. The Disciplinary Authority in the show cause notice itself has underscored past conduct of petitioner. It was noticed that he remained absent on 42 occasions during his short service of 12 years. The Appellate as well as Revisionary Authority also considered past conduct of the petitioner. It was noticed that he was awarded four major punishments and his 19 increments with permanent effect were forfeited during short span of 12 years service. The operative portion of order dated 16.10.2024 passed by the Appellate Authority reads as:-

“5. I have examined the appeal of the appellant, relevant departmental enquiry file & other relevant record and found that the departmental enquiry has been conducted as per procedure. There are sufficient incriminating evidences on file/record which proves the allegations levelled against him. It is evident from the record placed on file that the appellant deliberately did not join the

departmental proceedings, even after asked to join a number of times by the Enquiry Officer in writing, which forced/compelled the Enquiry officer to get the orders of Ex. party proceedings for departmental enquiry, from the Punishing authority. Furthermore, the examination of medical documents revealed that medical documents produced by the appellant are photocopies of original documents (having alteration in date). Some of the documents belong to the treatment of evil soul/black magic by a Tantrik (exorcist). The appellant was recruited in police department in the year 2012. Out of 12 years of service he has remained absent (42 times) from duty for almost 6 years which speaks the kind of discipline he maintains in a disciplined force. Hence, I did not find any merit in the appeal of the appellant and the same is hereby rejected.

6. The appeal is disposed off accordingly. An entry be made in the character roll of the appellant and also in the HRMS data base. A copy of the order be supplied to the appellant free of cost. However, as per provisions of 16.32 of PPR, 1934, he may submit his revision petition to the next higher authority i.e. DGP, Haryana, within a month of the date of receipt of appellate orders to him.”

5. The operative portion of order dated 21.02.2025 passed by the Revisionary Authority reads as under:-

“Whereas, the revisionist was heard in person through webex video conferencing on 20.02.2025. During the Course of hearing, the revisionist submitted that he was not medically fit, hence, his absence from duty was beyond his control. Further, he pleaded for exoneration. I have carefully examined all relevant documents i.e. revision petition submitted by the revisionist, departmental enquiry file and orders passed by the Punishing and Appellate Authority. The departmental enquiry has been conducted in accordance with laid down

procedure and has no legal infirmity in it. Charges against the revisionist stand proved. The revisionist did not bother to submit his request for sanction of leave to the higher authorities. I have also perused service record of the revisionist. Apart from instant punishment, he had been awarded 04 major punishments during his service span of 12 years and 19 increments with permanent effect had already stands stopped in departmental proceedings. I am very well aware of the fact that previous punishment should not have impact while deciding new case. However, case of the revisionist is an exceptional case. A disciplined force cannot afford to retain a habitual offender like the revisionist. Continued misconduct has proved incorrigibility and complete unfitness of the revisionist for Police service. Hence, I do not find any reason to interfere with orders passed by the Punishing Authority and Appellate Authority. Accordingly, revision petition is dismissed being devoid of merit.”

6. *The petitioner was concededly part of disciplined force and was bound to strictly follow the rules and regulations. Armed Forces cannot retain any indisciplined 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.

XXXX 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.

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.”

6. Though the learned counsel for the appellant contends that a liberal approach ought to have been followed in the matter and the punishment imposed is shockingly disproportionate but we do not find any substance in such contention considering the facts of the present case as neither there is any procedural infirmity in imposing punishment upon the appellant nor the punishment is shown to be grossly disproportionate in view of the admitted facts of the case.

7. In such circumstances, we do not find any reason to interfere with the well-reasoned judgment of the learned Single Bench. The appeal fails and is accordingly dismissed.
8. All pending misc. application(s), if any, also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

10.09.2025
rajesh

- | | | |
|-------------------------------|---|--------|
| 1. Whether speaking/reasoned? | : | Yes/No |
| 2. Whether reportable? | : | Yes/No |