

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

115

CWP-34375-2024
Date of Decision: 27.01.2025

Ravinder Kumar

.....Petitioner(s)

Versus

State of Punjab and others

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. S.K. Choudhary, Advocate,
for the petitioner.

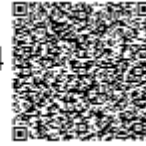
Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

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

- (i) show cause notice dated 23.10.2023 (Annexure P-1);
- (ii) order dated 09.12.2019 (Annexure P-2) whereby he was dismissed from service;
- (iii) order dated 16.08.2022 (Annexure P-3) whereby his appeal against the dismissal order was dismissed;
- (iv) order dated 01.06.2023 (Annexure P-4) whereby his second appeal was dismissed.

2. The petitioner is assailing orders passed by police authorities whereby he has been dismissed from service. The order of dismissal from service was passed on 09.12.2019 by Disciplinary Authority. The petitioner



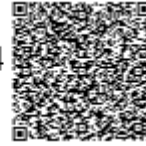
preferred appeal which came to be dismissed vide order dated 16.08.2022 passed by Additional Director General of Police. There is no provision for second appeal still second appeal was filed before Director General of Police, who vide order dated 01.06.2023 dismissed his appeal.

3. Mr. Choudhary submits that petitioner joined Punjab Police Force as Constable on 16.06.1992. By the date of passing impugned order, the petitioner had already completed service of more than 25 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 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.

4. *Per contra*, learned State counsel submits that petitioner was habitual absentee. On account of his act and conduct, he was subjected to major punishment on 14 occasions and minor punishment on 8 occasions. 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 heard the arguments and perused the record.

6. From the perusal of record, it is evident that petitioner has been dismissed from service for absence from duty for 57 days and 8 hours. He remained absent from duty from 16.09.2018 to 12.11.2018. It was not his first misconduct. He was habitual absentee. The Disciplinary Authority while



his credit whereas he had 25 bad entries. He was subjected to punishment on 25 occasions which included 17 major penalties. 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:

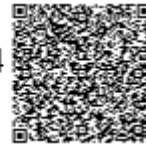
“11. It is apparent from the above table that the appellant was a habitual offender. There were four red ink entries and one black ink entry against him before the present incident cited at Serial No. (f) above. Such gross indiscipline on the part of the appellant who was a member of the Armed Forces 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 5 ½ 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. As the petitioner despite being member of disciplined Police Force was habitual absentee and did not mend his behavior, this Court does not find it appropriate to look into the quantum of punishment awarded to him.

10. In the wake of above facts & findings, judgment of the Apex Court in **Madan Prasad (Supra)** and Division Bench Judgment of this Court in **Balwinder Singh (Supra)**, this Court is of the considered opinion that the

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

27.01.2025
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(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	Yes