



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

CWP-20351-2004 (O&M)
Date of Decision: 11.02.2026

Rajesh Kumar

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Babbar Bhan, Advocate and
 Mr. Davinder Kaliraman, Advocate for the petitioner.

Mr. Teevar Sharma, DAG, Haryana.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Article 226/227 of the Constitution of India is seeking setting aside of order whereby he was awarded punishment of forfeiture of three annual increments with permanent effect.

2. The petitioner joined Haryana Police as Constable in 1984. The respondent initiated departmental inquiry against him alleging that he remained absent from duty for 383 days. The inquiry officer found him guilty of alleged misconduct and disciplinary authority vide order dated 29.11.1994 awarded him punishment of forfeiture of five annual increments with permanent effect. He preferred appeal and Appellate Authority vide order dated 07.03.2002 dismissed the same. He preferred revision which was partially allowed. The Director General of Police vide order dated 29.08.2002 reduced the punishment to forfeiture of three annual increments with permanent effect.

3. Learned counsel representing the petitioner submits that petitioner was referred to Civil Hospital from the Police Station itself. He underwent two major surgeries. There is no dispute with respect to his medical treatment still was punished alleging that he has no explanation for his absence from duty. The grievance of the petitioner, at this stage, would be redressed if punishment of forfeiture of three increments with permanent effect is substituted by minor punishment.

4. Learned State Counsel reiterates findings of the departmental authorities and submits that no interference is warranted. The petitioner belongs to a disciplined force, thus, his conduct must be above board. He is bound to maintain high standards of discipline.

5. From the perusal of record, it is evident that petitioner remained absent from duty because he was unwell. He underwent two surgeries. The Disciplinary Authority in its order has noticed petitioner's medical condition. Relevant extracts of order dated 29.11.1994 passed by Superintendent of Police (SP), Narnaul read as:

“That from the perusal of the Photostat copy regarding the treatment of the decease which the delinquent has appended with his written statement, it is revealed that the delinquent was referred from Civil Hospital Narnaul to Medical College Rohtak on 27.8.1993. From the perusal of the OPD Card Medical College Rohtak it appears that the delinquent went to the medical College Rohtak on 10.7.1993, 23.7.1993 and 3.9.1993. That Rajesh was operated upon on 6. 9.1993 in Urology Leproscopy Centre Sector 8, Rohani, Ring Road, Delhi from where he was discharged on 14.9.1933 with an advice of having one month rest. That the delinquent was admitted for treatment on 21.12.1993 in Maharaj Aggrsain Hospital, Punjabi Bagh New Delhi. and from there he was discharged on

24.12.1993. On the discharge slip no rest has been recommended. The delinquent Constable left for treatment to General Hospital Narnaul from Police Station Ateli on 27.8. 1993 and after that his whereabouts are not known, and in the end the delinquent was present at Police line Narnaul on 14.9.1994 vide rapat No. 24 dated 14.9.1994 Ex.PW-1/D, during this period neither the Constable applied for any leave nor he has sent any leave application and he has not sent any oral communication regarding his presence to the department. During departmental proceedings the delinquent constable has not produced any witnesses in his defence. The documents which are not Exhibited during the proceeding could not be said to he concerned with the proceedings. Even then if the documents produced with the written statement of the delinquent be kept in mind then the delinquent Constable was first discharged from the Hospital on 14.9.1994 and he was advised rest for one month i.e. up to 14.10.1993. After that he got treatment from Maharaj Aggrsain Hospital from 21.12.1993 to 24.12.1993. In this way he remained absent from 14.10.1993 to 20.12.1993 and from 25.12.1993 to 13.9.1994 and returned to work on 14.9.1994. He has no explanation for his absence for this period.”

6. It is a settled proposition of law that punishment should be incommensurate to alleged offence. The principle of proportionality should be followed by all quasi-judicial and judicial authorities while awarding punishment irrespective of nature of offence. As per principle of proportionality, even punishment prescribed by legislation must be incommensurate to alleged offence. If punishment is disproportionate to alleged offence, it is violative of Article 14 of the Constitution of India.

7. In '***Om Kumar v. Union of India***', (2001) 2 SCC 386, Supreme Court vide order dated 04.05.2000 proposed to re-open the

quantum of punishments imposed in departmental inquiries on certain officers of the Delhi Development Authority who were connected with the land of the DDA allotted to M/s. Skipper Construction Co. It was proposed to consider imposition of higher degree of punishments in view of role of these officers in the said matter. The question posed before the court was whether the right punishment was awarded to the officers in accordance with well-known principles of law or whether the punishments required any upward revision. The Court has highlighted proportionality as a constitutional doctrine.

8. In '*Bhagat Ram v. State of Himachal Pradesh*', (1983) 2 *SCC 442*, the Apex Court held that any penalty which is disproportionate to the gravity of misconduct would be violative of Article 14 of the Constitution of India. The relevant extracts of the judgment read as:

"15. ... It is equally true that the penalty imposed must be commensurate with the gravity of the misconduct, and that any penalty disproportionate to the gravity of the misconduct would be violative of Article 14 of the Constitution. ..."

9. In the case in hand, the petitioner remained absent from duty for 383 days. He was not a habitual absentee. He brought on record that he was unwell, thus could not join office. The respondent on one hand has accepted petitioner's medical condition and on the other held that he has no explanation for remaining absent from duty. The finding of authorities are self-contradictory. In these circumstances, by no means or reasons, awarded punishment can be called proportionate to alleged misconduct. The respondent was bound to award punishment proportionate to alleged offence.

10. The Supreme Court has held that in case Court finds that punishment awarded by authority is disproportionate to alleged misconduct, the Court should remand the matter back to competent authority to reconsider quantum of punishment. Thus, in the normal course matter ought to be remanded to authorities to reconsider quantum of punishment. However, in this particular case, this Court does not find it appropriate to remand the matter back to departmental authorities because a period of almost 18 years from the date of alleged offence has already passed away. There are all possibilities that remand would multiply the litigation. Thus, to cut short the litigation and considering the alleged misconduct, this Court deems it appropriate to reduce the quantum of punishment from forfeiture of three increments with permanent effect to three increments with temporary effect. Ordered accordingly.

11. On account of modification of punishment, arrears may arise which shall be paid within 6 months from today failing which respondent would be liable to pay interest on arrears @ 9% p.a. from the expiry of said period.

12. Pending Misc. application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

11.02.2026
Prince Chawla

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