



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

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RSA-2338-1995 (O&amp;M)

Date of Decision : 05.02.2026

State of Punjab and others

.....Appellants

Versus

Rashid Ahmad

....Respondent

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

Present : Mr. Surya Kumar, A.A.G., Punjab.

None for the respondent.

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**NAMIT KUMAR, J. (ORAL)**

1. The appellants have filed the instant Regular Second Appeal against judgment and decree dated 02.04.1992, passed by learned Sub Judge III Class, Jalandhar, whereby the suit for declaration filed by the respondent has been decreed in his favour, as well as the judgment and decree dated 20.04.1995, passed by learned Additional District Judge, Jalandhar, whereby an appeal filed by the appellants-State of Punjab against judgment and decree dated 02.04.1992, has been dismissed. Parties to the lis are being referred to as per their original position before the Trial Court.

2. Brief facts of the case are that the plaintiff joined the service in the Punjab Police as Constable on 04.12.1981 as he was First Class Kabaddi player. In the month of March, 1986, the mother of the plaintiff fell seriously ill and there being no other male member in the family to look after her, the plaintiff was compelled to remain away from duty. Consequently, he was treated as absent from duty and was subjected to departmental proceedings. After holding a departmental

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inquiry, the plaintiff was issued a show cause notice and thereafter, vide order dated 17.04.1988, passed by the Superintendent of Police, Jalandhar, the punishment of 'forfeiture of his five years approved service' was imposed upon him. Aggrieved by the said order, the plaintiff preferred a departmental appeal, which was rejected, vide order dated 01.12.1988, passed by the Deputy Inspector General of Police, Jalandhar. Impugning the said orders, the plaintiff filed a suit for declaration, which was decreed by the learned Trial Court, vide judgment and decree dated 02.04.1992, primarily on two grounds that the punishment imposed was not provided under the relevant rules and that the period of absence had been treated as leave without pay, thereby amounting to regularization of the said period. The said judgment and decree dated 02.04.1992 was challenged by the defendants-State of Punjab by filing an appeal before the learned First Appellate Court, which was dismissed vide judgment and decree dated 20.04.1995. Hence, the instant Regular Second Appeal has been filed by the defendants-State by impugning the judgments and decrees passed by the Courts below.

3. Vide order dated 02.02.1996 passed by this Court, the instant appeal was admitted and the operation of the impugned judgments and decrees passed by the Courts below was stayed. Thereafter, the matter was heard by this Court on 17.09.2019 and was adjourned to 23.09.2019 to enable the parties to render necessary assistance to the Court, as to what does the expression 'approved service' as used in the Punjab Police Rules actually means. Pursuant to



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the said order, an additional affidavit dated 23.09.2019 was filed by Mr. Bimal Kant, PPS, Assistant Commissioner of Police, Headquarters, Police Commissionerate, Jalandhar, wherein it was stated as under :-

“xx                      xx                      xx                      xx                      xx

3. *That it is respectfully submitted that though term "**Approved Service**" has been used in number of rules of Punjab Police Rules 1934 yet it has not been defined or described specifically anywhere in the said rules. However, it is generally understood that term "**Approved Service**" would mean service actually rendered by a police official excluding service which has been forfeited or would be forfeited in future. It also exclude the period of absence from duty, if any. It is worth mentioning that forfeited service is considered as qualifying service for the purpose of pension but absence period from duty is not considered as such. As mentioned in the impugned order, five years approved service of the respondent Constable Rashid Ahemad has been forfeited only for the purpose of future increments as prescribed in Rule 16.5 of the Punjab Police Rules. Passing of the impugned order has not put any adverse effect on the pensionary benefits of the respondent except the reduction of his five increments. The Rule 16.5 is reproduced as under:-*

- (1) *The increment of a police officer on a time-scale may be withheld as a punishment. The order must state definitely the period for which the increment is withheld, and whether the postponement shall have the effect of postponing future increments. The detailed orders regarding the grant and stoppage of increments are contained in rule 13.2.*
- (2) *Approved service for increment maybe forfeited, either temporarily or permanently, and such*



*forfeiture may entail either the deferment of an increment or increments or a reduction in pay. The order must state whether the forfeiture of approved service is to be permanent; or, if not, the period for which it has been forfeited.*

- (3) *Reinstatement on the expiry of a period fixed under sub-rule (1) or (2) above, shall be conditional upon good conduct in the interval. but, if it is desired under this rule not to reinstate an officer, a separate order shall be recorded, after the officer concerned has been given opportunity to show cause why his reinstatement should not be deferred, and the period for which such order shall have effect, shall be stated. Rules regarding the method of recording punishments under this rule in seniority rolls are contained in Chapter X."*

4. *That it is further respectfully submitted that the respondent Constable Rashid Ahemad superannuated on 31.05.2015 after obtaining the age of 58 years. At the time of retirement he had rendered total 33 years, 05 month and 27 days service in the Police Department from 04.12.1981 to 31.05.2015. During his service, he remained absent from duty for 02 years, 10 months and 22 days which has been considered as non-qualifying service. As such the respondent has got pensionary benefits for 30 years 07 months and 05 days service which he has rendered. The respondent is not entitled to get any other relief.*

xx                      xx                      xx                      xx                      xx''

4.                      Thereafter, on 23.10.2019, contention of learned State counsel was recorded to the effect that the impugned order of punishment with regard to forfeiture of approved service of five years has the adverse affect only qua increments for the next five years from



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the date of passing of the order. In view of his statement, learned State counsel was directed to file an affidavit, if the impugned order adversely affects right of the plaintiff to get five increments with cumulative effect or otherwise. In pursuant thereto, another additional affidavit dated 02.11.2019 was filed by Mr. Bimal Kant, PPS, Assistant Commissioner of Police, Headquarters, Police Commissionerate, Jalandhar, wherein it was stated as under :-

*“3. That it is respectfully submitted that although the impugned order no.34145-49 dated 17.04.1988 passed by this office does not specify whether the forfeiture of 05 years approved service for increments has been forfeited with cumulative effect or otherwise, yet on the basis of record, it is hereby submitted that the service was forfeited with cumulative effect because the respondent/plaintiff was not granted increments after 05 years of passing impugned order. Had it been forfeited with temporary effect the forfeited increments would have been granted after 05 years. Even otherwise the conduct of the respondent was such that he deserved punishment of forfeiture of increments with permanent effect/cumulative effect.*

*4. That it is respectfully submitted that the respondent/plaintiff also remained absent from duty for the period of 01 year 03 months and 16 days, i.e. from 10.03.1984 to 27.11.1985 for which his 05 years approved service for increments with permanent effect was also forfeited vide this office order no.121824-28 dated 21.12.1987 after holding a separate departmental enquiry as provided under rule 16.24 of Punjab Police Rules.*

*5. That it is respectfully submitted that the above mentioned forfeitures of total 10 years approved service for the purpose of increments on two occasions has been*



*counted as qualifying service for the purpose of retirement benefits as already submitted in para no.4 of previous affidavit dated 22.09.2019 submitted by the deponent.”*

5. I have heard learned counsel for the appellants/defendants and examined the records with his able assistance.

6. A Division Bench of this Court in ***CWP No.19730 of 2004 titled as ‘Ranjit Singh Vs. State of Punjab and others’ decided on 14.09.2006***, after noticing Rule 16.5 of Punjab Police Rules, 1934, has held that it is open to the punishing authority to forfeit approved service for the purpose of increments. While rejecting the argument of the petitioner, the Division Bench held as under :-

*“In view of the above, it is not possible for us to accept, that the punishment imposed on the petitioner, does not flow from the provisions of the 1934 Rules, It is, therefore, not possible for us to accept the sole contention of the learned counsel for the petitioner.*

*While dismissing the instant writ petition, it will also be appropriate for us to set aside the order rendered by this Court in State of Punjab Vs. Joginder Singh, 1992(3) Service Cases Today, 671, wherein the relevant statutory provisions were not brought to the notice of this Court when the matter was adjudicated. Ordered accordingly.”*

7. From the above, it is clear that the punishment imposed upon the plaintiff meets the mandate of the rules and the judgments and decrees passed by both the Courts below are based on incorrect interpretation of the applicable rules.

8. Another ground on which the punishment order against the plaintiff has been set aside by the Courts below is that the absence



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period was regularized by treating the same as leave without pay and therefore, the absence stood condoned. The said reasoning is not sustainable in law. The leave without pay was granted only for the limited purpose of maintaining correct record of the duration of service and for adjustment of leave due to the plaintiff, and it does not amount to condonation of the unauthorized period of absence. The said issue has been settled by Hon'ble Supreme Court in ***State of Punjab Vs. Dr. P.L. Singla : 2008(3) SCT 742***, wherein it has been held that where, while passing the order of punishment, the absence period has been decided to be treated in a particular manner, the same does not mean the condoning of the allegation of the charge alleged, which has already been proved. The relevant paragraph of the said judgment is as under :-

*“10. Where the employee who is unauthorizedly absent does not report back to duty and offer any satisfactory explanation, or where the explanation offered by the employee is not satisfactory, the employer will take recourse to disciplinary action in regard to the unauthorised absence. Such disciplinary proceedings may lead to imposition of punishment ranging from a major penalty like dismissal or removal from service to a minor penalty like withholding of increments without cumulative effect. The extent of penalty will depend upon the nature of service, the position held by the employee, the period of absence and the cause/explanation for the absence. Where the punishment is either dismissal or removal, it may not be necessary to pass any consequential orders relating to the period of unauthorized absence (unless the rules require otherwise). Where the punishment awarded for the unauthorized absence, does not result in severance of employment and the employee continues in service, it will*



*be necessary to pass some consequential order as to how the period of absence should be accounted for and dealt with in the service record. If the unauthorized absence remains unaccounted, it will result in break in service, thereby affecting the seniority, pension, pay etc., of the employee. Any consequential order directing how the period of absence should be accounted, is an accounting and administrative procedure, which does not affect or supersede the order imposing punishment.*

*11. In this case, the punishment was imposed by order dated 16.9.1999/11.10.1999. That order was not cancelled, revoked or withdrawn. The subsequent order dated 25.1.2001 merely accorded extraordinary leave in regard to the period of absence, but did not condone the unauthorized absence nor wipe out the punishment already imposed. The said order was only consequential to the imposition of punishment. Its effect was to maintain continuity of service of the respondent, but deny salary for the period of absence and not to count the period of absence as qualifying service for the purposes of pension. Its effect is certainly not to exonerate the respondent from the charge of unauthorised absence nor to wipe out the punishment. If the intention was to revoke the punishment, the order dated 25.1.2001 would have clearly stated so. But it did not.*

*12. The assumption by the courts below that when an order is passed according extra-ordinary leave for the period of absence, it will have the effect of effacing or erasing the punishment already imposed, is therefore incorrect and is a serious error of law. When the trial court and the appellate court had committed this serious error, the High Court ought to have formulated an appropriate question of law and allowed the second appeal. Instead, it*



*chose to dismiss the second appeal putting its seal of approval on a wrong interpretation of law leading to serious repercussions in regard to discipline and administration. The judgment of the High Court confirming the orders of the courts below, therefore calls for interference."*

9. To the similar effect is the judgment of the Hon’ble Supreme Court in ***Maan Singh Vs. Union of India and others : 2003(2) SCT 84*** and of this Court in ***Punjab State Vs. Malwinder Singh 2011(2) SCT 21***.

10. As a result of the above discussion, the instant appeal is allowed and the judgments and decrees passed by the Courts below are set aside and the suit filed by the plaintiff is dismissed with no order as to costs.

11. Pending application(s), if any, shall stand(s) disposed of accordingly.

**05.02.2026**  
*Kothiyal*

**(NAMIT KUMAR)**  
**JUDGE**

|                           |        |
|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |