

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA-2734-1995

State of Punjab and othersAppellants

Versus

Labh Singh (now deceased) through his LRsRespondent

1.	Reserved on	:	10.02.2026
2.	Pronounced on	:	17.02.2026
3.	Uploaded on the website	:	17.02.2026
4.	Whether only operative part of the judgment is pronounced or full judgment is pronounced	:	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	:	Not applicable

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by : Mr. Surya Kumar, AAG, Punjab
for the appellants.

Mr. Rohit Kataria, Advocate for
Mr. Manu K. Bhandari, Advocate
for the respondent.

NAMIT KUMAR, J.

1. The appellants/defendants-State of Punjab are in Regular Second Appeal before this Court challenging the judgment and decree dated 06.06.1995, passed by learned First Appellate Court, whereby the appeal preferred by the respondent/plaintiff, has been accepted and the judgment and decree dated 23.07.1994, passed by learned Trial Court has been set aside and the suit of the respondent/plaintiff has been decreed and the impugned order of dismissal dated 25.05.1989 and order dismissing his appeal, have been set aside.
2. Parties to the *lis* hereinafter shall be referred to by their original position before the learned Trial Court.

3. The pleaded case of the plaintiff is that he was enrolled as a Constable in the Punjab Police on 02.09.1979 and was transferred from City Traffic to Police Lines, Patiala. Owing to serious illness of his wife, the plaintiff was compelled to proceed on leave. Thereafter, he resumed his duties on 31.10.1987. Subsequently, he was again transferred on 27.03.1988 to Police Lines, Patiala. During this period, his father fell ill and accordingly, the plaintiff informed the department and sought leave. He re-joined his duties on 21.09.1988. A regular department enquiry was thereafter instituted against the plaintiff on the charge of absence from duty. Sh.Surjit Singh Ghuman, DSP, was appointed as an Enquiry Officer, who submitted his enquiry report dated 28.02.1989. Thereafter, a show cause notice was issued to him on 02.04.1989, to which he filed reply. However, he was dismissed from service, vide order dated 25.05.1989 by the Senior Superintendent of Police, Patiala. Aggrieved by the said order, the plaintiff preferred departmental appeal, which was dismissed by the Deputy Inspector General of Police. Consequently, the plaintiff filed a suit seeking declaration that the order of dismissal as well as the order passed by the Appellate Authority are illegal, void and liable to be set aside.

4. Upon being served, the defendants contested the suit by filing a written statement, wherein it was stated that the plaintiff had remained absent from duty without sanctioned leave for about 01 month on the first occasion and for about 07 months on the second occasion. On account of these allegations, a regular departmental enquiry was instituted against him, pursuant to which the Enquiry Officer submitted his report against him. A show cause notice was thereafter served upon

him and after complying with all the procedural requirements, the plaintiff was dismissed from service, vide order dated 25.05.1989. The appeal preferred by him was rejected by the Deputy Inspector General of Police. It was further pleaded that the plaintiff was a member of the disciplined force and absence from duty without permission, amounted to serious misconduct for which dismissal from service was the only appropriate punishment.

5. Issues were framed on the basis of pleadings of the parties and after they led evidence, and were heard, learned Trial Court, vide judgement and decree dated 23.07.1994, dismissed the suit filed by the plaintiff by recording a finding that there was no defect in the enquiry proceedings conducted against the plaintiff. It was held that no irregularity or illegality in the enquiry proceedings had been established by the learned counsel for the plaintiff. One of the arguments raised on behalf of the plaintiff was that the chargesheet had been prepared by the DSP, who was also conducting the enquiry. The said contention was rejected by learned Trial Court by recording a finding that the copy of the chargesheet (Ex.P15) was duly signed by the Senior Superintendent of Police, who was the competent authority to issue the chargesheet. Accordingly, it was held that there is no defect in the enquiry conducted against the plaintiff and the same had been conducted strictly in accordance with the Punjab Police Rules, 1934 (hereinafter referred to as 'the Rules'). Therefore, the quantum of punishment cannot be gone into by the Civil Court.

6. Thereafter, the plaintiff preferred first appeal before learned First Appellate Court, which was accepted mainly on the

ground that the punishing authority had failed to apply its mind and had not recorded a clear cut finding that the absence of the plaintiff from duty, without sanctioned leave, amounted to gravest act of misconduct on his part, which merited dismissal from service. It was held that the mandatory requirement of Rule 16.24 (IX) of the Rules, had not been complied with and, consequently, the order of dismissal as well as the order dismissing the departmental appeal were held to be illegal and void.

7. Learned State counsel representing the appellants/defendants has submitted that the judgement and decree passed by learned First Appellate Court is totally perverse inasmuch as unauthorised absence from duty by a police official constitutes the gravest act of misconduct. It was argued that since the plaintiff remained absent from duty unauthorizedly on two occasions, the punishment of dismissal from service was justified and ought not to have been interfered with by learned First Appellate Court.

8. *Per contra*, learned counsel for the respondent/plaintiff, while supporting the judgment and decree passed by learned First Appellate Court, has contended that the order of dismissal is violative of Rule 16.2(1) of the Rules and absence from service cannot qualify as gravest act of misconduct, inviting the order of dismissal, which is harsh. He has submitted that due regard has not been given to the length of service of the plaintiff and his claim for pension.

9. I have heard learned counsel for the parties and considered their respective submissions as well as examined the record with their able assistance.

10. It is apposite to notice Rule 16.2(1) of the Rules, which is reproduced hereunder:-

“16.2 Dismissal – (1) Dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect of continued misconduct proving incorrigibility and complete unfitness for police service. In making such an award regard shall be had to the length of service of the offender and his claim to pension.
xxx xxx xxx xxx xxx”

11. A perusal of the above reproduced provision shows that it provides for dismissal from service for gravest acts of misconduct or as a cumulative effect of continued misconduct proving incorrigibility and complete unfitness for police service. Under the former part of the provision, gravest acts of misconduct entail dismissal, whereas under its latter part, it is the cumulative effect of continued misconduct, which invites the punishment of dismissal. In both cases, incorrigibility of the delinquent official and complete unfitness for police service has to be established. Simultaneously, the punishing authority is required to take into consideration the length of service of the delinquent official as well as his claim to pension.

12. This Court has minutely examined the order of dismissal dated 25.05.1989, Ex.P23/24. Disciplinary proceedings were conducted against the plaintiff and he was held guilty of the charge of absence of duty on two occasions. The first absence was for 30 days, 04 hours and 35 minutes and second absence was for 05 months, 24 days, 16 hours and 30 minutes (total absence 06 months, 24 days, 21 hours, 05 minutes). Learned Trial Court has held that there is no irregularity or illegality in the enquiry proceedings conducted against the plaintiff. After holding regular departmental enquiry, he was issued a show cause

notice by proposing the punishment of dismissal from service and he was afforded 10 days time to reply to the show cause notice and was also given liberty to put up his oral defence by appearing before the punishing authority. However, he did not file any reply nor appeared before the punishing authority. Still another opportunity was afforded to the plaintiff by issuing a final show cause notice on 09.05.1989, which was got noted from him through Constable Prem Sarup No.151/PTL, by which he was directed to produce his reply within a period of 07 days. The said notice was received by the plaintiff on 15.05.1989 but he did not file any reply nor he appeared. The punishing authority went through the entire service record and passed the order of dismissal from service, vide order dated 25.05.1989. The departmental appeal preferred by the plaintiff was also dismissed by the Deputy Inspector General of Police, vide order dated 17.01.1990.

13. It has been held by the Supreme Court in ***State of Punjab and others vs. Sukhwinder Singh (2007) 10 SCC 511*** as under:-

“6. That the order of dismissal did not use the “mantra” of “gravest act of misconduct” is not determinative. The substance of that conclusion is to be found in that order. When a policeman is repeatedly absent from duty, it cannot but be reasonably concluded that there is incorrigibility in his continued misconduct.”

14. In ***State of UP vs. Ashok Kumar Singh, (1996) 1 SCC 302***, the Hon'ble Supreme Court has held that absence from duty by a police official on several occasions, amounts to gravest misconduct and the punishment imposed by the disciplinary authority cannot be interfered with by the Courts.

15. A Division Bench of this Court in ***The State of Haryana***

and others vs. Gurdev Singh, 1981 (3) SLR 130, observed that the punishment imposed on the police officials on account of misconduct while on duty is not to be lightly interfered with by the Courts.

16. In RSA-2732 of 1997 titled as ***State of Punjab and others vs. Chamkaur Singh, decided on 11.02.2015***, this Court has held that absence from duty by a member of a disciplined force, without prior information, shows indiscipline.

17. Coming to the next argument of the learned counsel for the respondent/plaintiff to the effect that the plaintiff had rendered about 10 years of service and, therefore, his claim for pension ought to have been considered by the punishing authority while passing the order of punishment, as the same has not been considered. The said contention is liable to be rejected at the threshold, as the plaintiff was enrolled as Constable on 02.09.1979 and was dismissed from service, vide order dated 25.05.1989 on account of his unauthorised absence from duty for a period of 06 months 24 days 21 hours and 05 minutes. Thus, the plaintiff had not completed 10 years of qualifying service. Even if the length of service of the plaintiff had been examined by the punishing authority, it would have been an exercise in futility as the plaintiff had less than 10 years' service and was neither eligible nor entitled to claim pension under the applicable rules.

18. This Court holds that the unauthorised absence from duty by a member of a disciplined force constitutes a gravest act of misconduct. In the present case, the plaintiff remained absent without sanctioned leave on two occasions, including a prolonged absence of about seven months. The departmental enquiry was conducted strictly

in accordance with the Rules, 1934, and no procedural illegality has been shown. In such circumstances, the disciplinary authority was justified in imposing the penalty of dismissal from service, and interference with the quantum of punishment is wholly unwarranted. Therefore, in this view of the matter, the finding recorded by learned First Appellate Court is required to be reversed and that of learned Trial Court is liable to be maintained.

19. For the reasons assigned hereinabove, the present appeal is allowed and the judgment and decree dated 06.06.1995, passed by learned First Appellate Court is hereby set aside and that of learned Trial Court is restored, and the suit of the plaintiff stands dismissed with no order as to costs.

20. Pending applications, if any, stand disposed of.

17.02.2026

Vinay

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No