



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

RSA-365-1997 (O&M)

State of Haryana and others

.....Appellants

Versus

Roshan Lal (deceased) through his LRs

.....Respondents

- | | |
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| 1. Reserved on | : 13.02.2026 |
| 2. Pronounced on | : 24.02.2026 |
| 3. Uploaded on the website | : 24.02.2026 |
| 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. Priyavrat Parashar, AAG, Haryana
for the appellants assisted by
ASI Surender Singh.

Mr. Babbar Bhan Dhayal, Advocate
for the LRs of the respondent.

NAMIT KUMAR, J.

1. The appellants/defendants are in Regular Second Appeal before this Court challenging the judgment and decree dated 07.08.1996, passed by the learned First Appellate Court, whereby the judgment and decree dated 27.02.1992, passed by the learned Trial Court, has been reversed and the suit of the respondent/plaintiff has been decreed.

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 initially enrolled as a Constable in the Haryana Police on 23.02.1977. When he

was posted at Rewari, some persons, who had ill-will against him, entangled him in a false case of beating a person and also consuming liquor and snatching the purse of Dinesh Kumar. An enquiry was conducted at the back of the plaintiff and punishment order dated 06.10.1986 was passed without issuance of final show cause notice and without affording opportunity of hearing. The appeal and the revision filed by the plaintiff were also dismissed by the Appellate and Revisional authority, vide orders dated 12.12.1986 and 05.02.1988 respectively.

4. The said orders were challenged by the plaintiff by filing a suit for declaration for declaring the said orders being illegal and reinstatement was sought with full pay and allowances along with interest.

5. The defendants filed their written statement taking the preliminary objection that the Civil Court had no jurisdiction to try the suit; the suit is liable to be dismissed because of act and conduct of the plaintiff; he has already availed the departmental remedies and was found guilty and the suit is bad for want of valid notice under Section 80 CPC. On merits, it was stated that the plaintiff was enrolled as Constable in Haryana Police on 23.02.1977 and he was dismissed from service on the basis of regular enquiry held against him as per rules and he was given full opportunity to defend his case. The orders passed by the Appellate and the Revisional authorities are as per law. The Enquiry Officer issued several notices but he did not come present before the Enquiry Officer although full opportunity was given to him in enquiry proceedings. The charge against the plaintiff was duly proved on the

basis of statements of PW1 Raj Kumar, PW2 Ashok Kumar and PW7 Dalip Kumar. After completion of enquiry, he was issued show cause notice along with copy of findings of the enquiry report and 15 days' time was granted to file reply. On his request, he was granted 07 days' more time for filing reply but still he did not file any reply and punishment order was passed by the competent authority which was upheld by the Appellate and Revisional Authorities. Replication controverting the averments made in the written statement was filed by the plaintiff and on the basis of the above pleadings, the following issues were framed by the learned Trial Court:-

“1. Whether the impugned order dtd 6.10.86, 12.12.86 and 5.2.1988 passed by the defendant No.5, 4 and 3 respectively are filed null and void as alleged ? OPP.

2. Whether the civil court has no jurisdiction to try the present suit ? OPD.

3. Whether the suit is liable to be dismissed on the ground mentioned in preliminary objection of para No.3 ? OPD.

4. Whether the plaintiff is stopped from filing the present suit ? OPD.

5. Whether the notice under section 80 CPC is invalid? OPD.

6. Relief:-”

6. Both the parties led evidence and were heard and the learned Trial Court, vide judgment and decree dated 27.02.1992 dismissed the suit of the plaintiff by holding that the order of dismissal was passed after following the due procedure of law and there was no infirmity in the departmental enquiry.

7. Aggrieved against the said judgment and decree dated 27.02.1992, passed by learned Additional Sr. Sub Judge, Narnaul, the respondent/plaintiff filed the First Appeal before the learned First

Appellate Court and the same was accepted, and the order of punishment of dismissal dated 06.10.1986 was set aside on the ground that it had been passed in contravention of the provision of Rule 16.2(1) of Punjab Police Rules, as the said order did not specifically record that the misconduct of the respondent/plaintiff amounted to gravest act of misconduct. The learned First Appellate Court observed that although in the appellate order dated 12.12.1986 passed by the DIGP, Hisar Range, Hisar, it was mentioned that the acts of the plaintiff constituted gravest misconduct but this order passed in appeal as well as the order dated 05.02.1988 passed in second appeal by DGP, were also set aside in view of the illegality of the order dated 06.10.1986. Consequently, the appeal filed by the plaintiff was accepted and the suit of the plaintiff was decreed.

8. Being aggrieved against the judgment and decree dated 07.08.1996, passed by the learned First Appellate Court, the State has filed the instant Regular Second Appeal impugning the said judgment.

9. Vide order dated 09.09.1997, while admitting the appeal, operation of the impugned judgment under appeal was stayed and during the pendency of the present appeal, the respondent/plaintiff has unfortunately died and his LRs have been brought on record.

10. Learned State counsel representing the appellants/defendants, has submitted that the judgment and decree passed by the learned First Appellate Court are wholly perverse, inasmuch as the misconduct proved against the plaintiff, who was a police official, constitutes the gravest act of misconduct, therefore, the punishment or dismissal from service was fully justified and ought not

to have been interfered with by the learned First Appellate Court. He has further submitted that the original order of punishment stood merged with the order passed by the Appellate Authority, wherein it has been specifically mentioned that the act of the plaintiff is a gravest act of misconduct.

11. *Per contra*, learned counsel for the respondent/plaintiff, while supporting the judgment and decree passed by the learned First Appellate Court, has contended that the order of dismissal is violative of Rule 16.2(1) of the Rules, and mere one incident cannot qualify as gravest act of misconduct, inviting the order of dismissal, which is harsh.

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

13. 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”

14. 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.

15. To understand the issue involved in the present case, it would be appropriate to discuss charge levelled against the plaintiff in the charge-sheet. The specific allegation against him is that on 04.01.1986 at about 4.30 P.M., the plaintiff, along with Constable Banwari Lal and Constable Babu Ram, went to Kamal Hotel, Rewari, where they consumed half a bottle of liquor. There, they developed friendship with one Dinesh Kumar, who was taking lunch at the hotel. All of them wanted to take more liquor, however, the Hotel owner did not allow them to do so, whereafter Constable Babu Ram left the place. The plaintiff got a sum of Rs.100/- from Dinesh Kumar and purchased liquor. Thereafter, they went to the shop of Om Parkash, a Barber, who also did not allow them to drink in his shop. The charge-sheet states that the plaintiff and his companions started consuming the liquor while standing in front of the said shop at the public place. Thereafter, the plaintiff along with other Constable took out the purse from the pocket of Dinesh Kumar, which contained a sum of Rs.560/- and some documents of insurance. It was further alleged that the plaintiff gave beatings to Dinesh Kumar and fled from the spot, leaving him behind.

16. This Court has minutely examined the order of dismissal dated 06.10.1986, passed by the punishing authority; order dated 12.12.1986, passed by the Appellate Authority and order dated

05.02.1988, passed by the Revisional Authority, whereby the plaintiff was held guilty of the charge levelled in the charge-sheet. The punishing authority, while passing the order of dismissal dated 06.10.1986, which is running into 21 pages, has minutely considered the charge levelled against the plaintiff in the charge-sheet and all other relevant documents such as finding recorded in the enquiry report and held as under:-

“9- In the light of my foregoing discussions I hold that the prosecution has succeeded in bringing the guilt home to the defaulters. And, accordingly, I hold them guilty of the charge except the charge of getting false report of departure from P.S. City Rewari to Police Lines, Narnaul for taking B-I examinations recorded by the defaulter Constable Roshan Lal No.152. The first occurrence took place at about 3/3-30 P.M. in Kamal Hotel, while the second occurrence took place at about 4/5.00 PM in front of the shop of Om Parkesh, Barbar, near Bharro Chowk, Rewari. Besides both the defaulters went on their respective duties immediately after second occurrence as stated by PW-4 SI Ballu Ram in cross examination. The factum of finding of a belt of the defaulter from his seat in Police Station as revealed from the statement of PW-5, Insp. Jai Narain have no nexus with the allegations levelled against the defaulters in the charge, because the departure of the defaulter constable Roshan Lal No.152 from PS City Rewari to P.L. Narnaul was made at 5.05 P.M. vide DDR No.31 dated 4.1.86 which is Ex.PD/1 and that after the time of departure as shown in Ex. PD/1 no occurrence of any kind took place. Hence it cannot be presumed that the defaulter Constable Roshan Lal No.152 falsely got recorded his departure to P.L.Narnaul in Ex. PD/1. Besides there is also no evidence on file to prove that Const. Roshan Lal No.152 did not report to Police Lines or that he did not appear in B-I test. Under these circumstances the charge of getting false daily diary report No.31 dated 4.1.86 recorded by defaulter Const. Roshan Lal No.152 does not stand proved and I, accordingly, acquit him of this portion of charge. The remaining charge stands proved against both the defaulters.

10- As regards the quantum of punishment to be awarded to the defaulters, Constable Banwari Lal No.283 and Constable Roshan Lal No.152 were recruited as constable on 1.9.74 and 23.2.77 respectively. Thus constable Banwari Lal No.283 has put in 12 years and one

month service to this department while Constable Roshan Lal No.152 put in 9 years 7 months and some days service to this department. And as such they have no claim to pensions. The defaulter Constable Banwari Lal No.283 is absent from 5.4.86 while Constable Roshan Lal No.152 from 2.7.86. Besides no extenuating circumstances are coming forth to take a lenient view against them. Keeping in view the nature and gravity of acts of misconducts done by them with Dinesh Kumar PW-8, a publicman I am of the view that no punishment other than proposed punishment of dismissal from services shall meet the ends of justice. I, accordingly, hereby dismiss both the defaulter Constables Banwari Lal No. 283 and Constable Roshan Lal No.152 with immediate effect.

11- A copy of this order shall be supplied to the defaulters free of cost and order be booked accordingly.

*Sd/-
Dated :- 6.10.86 (A.N.) Supdt. of Police,
Narnaul.”*

17. The said order has been upheld by the Appellate Authority, vide order dated 12.12.1986 by holding as under:-

*“7. The evidence of PW-8 Dinesh Kumar coupled with the evidence of PW-6 Om Parkash is sufficient to bring home the charges against the appellants. It has been proved beyond any shadow of doubt that the appellants be-friended Dinesh Kumar PW-8 in order to take liquor from him and thereafter they under the influence of liquor took more liquor at public place and took away the purse of Dinesh Kumar containing Rs.560/- and insurance documents and thereby lowered the image of the police in the eyes of the public. **These acts of the appellants amount to a gravest act of misconduct on their part. I find no justification in upsetting the order of the punishing authority dated 6.10.1986 and as such, I sustain the penalty of dismissal awarded by S.P. Narnaul.***

8. A copy of the order shall be supplied to the appellants i.e. Ex.-Consts. Roshan Lal No.152 and Banwari Lal No.283/NNL, free of cost under proper receipt.

*Sd/-
Dated :- 12.12.86. Dy. Inspector General of Police,
Hisar Range, Hisar.”*

18. The said orders have been upheld by the Revisional

Authority in its order dated 05.02.1988 and in the said order, it has been held as under:-

“4. I have gone through the revision petition and connected papers against Ex.Const. Roshan Lal No.152/NNL and found that the departmental enquiry was conducted according to Police Rules and instructions on the subject. There is no material irregularity in the proceedings. There are also no reasons or circumstances to disbelieve the prosecution. The petitioner was afforded full opportunity of hearing and cross examining the witnesses. The punishing authority had rightly relied upon the enquiry report which is detailed and held the petitioner as guilty. The Enquiry Officer has acted on the basis of material before him. The prosecution witnesses had been examined in the presence of the petitioner and he had also received the charge but had not submitted any defence either in writing or through his D.Ws. The petitioner slipped away and had disassociated with the enquiry. Despite notices he did not join. The Enquiry Officer was left with no other alternative except to proceed further and the prepare a report. The Superintendent of Police had rightly relied upon the enquiry. It had come in evidence that Dinesh Kumar was made to drink by the petitioner and his companion constable so heavily that he had lost control over himself which condition had provided a chance to the petitioner to take out money from his person. The physical condition of Dinesh Kumar due to heavy drinking had also not permitted him to make a report on the same day. The illness as a cause for disassociating from enquiry pleaded by the petitioner is an after thought. The misconduct on the part of the petitioner for trapping unknown persons by way of firstly becoming friendly and then cheating by snatching money from the pocket, was the gravest in nature and its minimum punishment should not have been lesser than dismissal. The judicial pronouncement relied upon by the petitioner are not helpful to him. The orders of Superintendent of Police/Deputy Inspector General of Police are legal as they were passed on the material placed before them. The misconduct against the petitioner has been fully proved and so he was rightly dismissed from the force. There are also no such mitigating circumstances to show him mercy. The petition lacks merit and hence rejected.

A copy of the orders shall be supplied to the petitioner (Ex.Constable Roshan Lal No.152/NNL) free of cost.

Sd/-

Dated : 5.2.88

Director General of Police &

Chandigarh.

Inspector General of Police,
Haryana”

19. The learned Trial Court has held that there is no irregularity or illegality in the enquiry proceedings conducted against the plaintiff.

20. 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.”

21. In ***State of U.P. v. Ashok Kumar Singh : 1996(1) SCC 302***, the Hon'ble Supreme Court has held that absence from duty by a police official amounts to gravest act of misconduct and the punishment imposed by the disciplinary authority cannot be interfered with by the Courts.

22. 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.

23. 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.

24. The punishing authority had examined the case of the plaintiff and ordered dismissal from service. While passing the said order, the length of service rendered by the plaintiff i.e. 09 years and 07

months was also taken into consideration. The Appellate Authority, while examining the appeal filed by the plaintiff, had recorded a specific finding that the act of the plaintiff amounts to a gravest act of misconduct on his part. The said orders have also been examined by the Revisional Authority and have been upheld. This Court concurs with the findings recorded by the authorities concerned that the misconduct on the part of the plaintiff, who is a member disciplined force, constitutes a gravest act of misconduct. The departmental enquiry was conducted strictly in accordance with the 1934 Rules, and no procedural irregularity or 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 findings recorded by the learned First Appellate Court are required to be reversed and that of the learned Trial Court are liable to be maintained.

25. For the reasons assigned hereinabove, the present appeal is allowed and the judgment and decree dated 07.08.1996, passed by the learned First Appellate Court is hereby set aside and that of the learned Trial Court is restored and the suit of the plaintiff stands dismissed with no order as to costs.

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

24.02.2026

Vinay

(NAMIT KUMAR)
JUDGE

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