



RSA-2574-2006 (O&M)

-1-

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

RSA-2574-2006 (O&M)

State of Haryana and ors.

..Appellants

Versus

Mam Chand

..Respondent

Reserved on: 01.04.2026

Pronounced on: 22.04.2026

Uploaded on: 23.04.2026

Whether only the operative part of the judgment is pronounced?

NO

Whether full judgment is pronounced?

YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Harish Nain, A.A.G. Haryana

Mr. R.K. Malik, Sr. Advocate assisted by
Mr. Sandeep Dhull and Mr. Samrat Malik, Advocates
for the respondent.

* * * * *

SUDEEPTI SHARMA, J. (Oral)

1. The present appeal is preferred against judgment and decree dated 14.01.2006 passed by learned District Judge, Gurgaon, whereby the appeal filed by the respondent against judgment and decree dated 31.03.2005 passed by Civil Judge (Sr. Divn.), Gurgaon, was allowed.

BRIEF FACTS OF THE CASE

2. Brief facts of the case as per civil suit are that on the ground of absence from duty in the years 2000, 2001 and 2002, appellant No. 2 ordered departmental enquiry against the respondent and on the basis of the same, the respondent was dismissed from service, vide order dated 24.04.2003. He filed appeal against the same, which was rejected, vide order dated 23.07.2003. Thereafter, he preferred revision petition, which was also



RSA-2574-2006 (O&M)

-2-

dismissed, vide order dated 11.12.2003. The respondent then filed civil suit challenging orders dated 24.04.2003, 23.07.2003 and 11.12.2003 but the same was dismissed, vide judgment and decree dated 31.03.2005 passed by Civil Judge (Sr. Divn.), Gurgaon. However, the respondent filed appeal against the same, which was accepted, vide judgment and decree dated 14.01.2006 passed by learned District Judge, Gurgaon. Hence, the present regular second appeal.

3. Learned counsel for the appellants contends that learned First Appellate Court wrongly converted the punishment of dismissal from service of the respondent to compulsory retirement without giving any reason or justification for the same and without appreciating the oral as well as documentary evidence on record. He further contends that the learned First Appellate Court has wrongly set aside the well reasoned judgment and decree dated 31.03.2005 passed by Civil Judge (Sr. Divn.), Gurgaon. He, therefore, prays that the present appeal be allowed and judgment and decree dated 31.03.2005 passed by Civil Judge (Sr. Divn.), Gurgaon be set aside.

4. In support of his arguments, he relies upon Division Bench judgment of this Court titled as ***Balwinder Singh vs. State of Punjab and others, passed in LPA No. 934-2023, decided on 21.02.2024.***

5. Per contra, learned counsel for the respondent contends that the learned First Appellate has rightly allowed the appeal filed by the respondent after taking into consideration oral as well as documentary evidence on record. He, therefore, prays that the present regular second appeal be dismissed.



RSA-2574-2006 (O&M)

-3-

6. In support of his arguments, he relies upon judgments of this Court passed in cases titled as *Ex. Constable Ranbir Singh vs. State of Haryana, 1999 (2) SCT 58 and Dhan Singh vs. State of Haryana and others, 2008 (3) SCT 816*.

7. I have heard learned counsel for the parties and perused the whole record of the case with their able assistance.

ANALYSIS OF THE RECORD

8. A perusal of the record shows that the respondent was awarded punishment on three different occasions for being absent from duty, which are detailed below:-

- i) Four increments stopped with permanent effect in the year 1999.*
- ii) Four increments stopped with permanent effect in the year 1999.*
- iii) Two increments stopped with temporary effect in the year 2002 besides warning etc.*

The respondent remained absent from duty on the occasions given below:

- | | | |
|--------------|---------------------------------|----------------|
| <i>i)</i> | <i>03.04.2000 to 27.06.2000</i> | <i>86 days</i> |
| <i>ii)</i> | <i>02.07.2000 to 21.07.2000</i> | <i>20 days</i> |
| <i>iii)</i> | <i>21.05.2001 to 22.05.2001</i> | <i>12 days</i> |
| <i>iv)</i> | <i>26.05.2001 to 28.05.2001</i> | <i>02 days</i> |
| <i>v)</i> | <i>01.06.2001 to 18.06.2001</i> | <i>18 days</i> |
| <i>vi)</i> | <i>28.06.2001 to 15.07.2001</i> | <i>18 days</i> |
| <i>vii)</i> | <i>16.07.2001 to 02.08.2001</i> | <i>17 days</i> |
| <i>viii)</i> | <i>05.08.2001 to 19.08.2001</i> | <i>14 days</i> |
| <i>ix)</i> | <i>16.09.2001 to 17.09.2001</i> | <i>01 days</i> |
| <i>x)</i> | <i>01.10.2001 to 11.10.2001</i> | <i>11 days</i> |


RSA-2574-2006 (O&M)
-4-

<i>xi)</i>	<i>07.01.2002 to 07.01.2002</i>	<i>01 days</i>
<i>xii)</i>	<i>30.12.2002 to 01.01.2002</i>	<i>03 days</i>
<i>xiii)</i>	<i>26.02.2002 to 06.03.2002</i>	<i>09 days</i>
<i>xiv)</i>	<i>30.04.2002 to 07.05.2002</i>	<i>08 days</i>
<i>xv)</i>	<i>11.05.2002 to 08.06.2002</i>	<i>29 days</i>
	<i>Total absent period</i>	<i>239 days</i>

9. A perusal of the above shows that the respondent remained absent from duty for 239 days, which is admitted by him, therefore, regular departmental enquiry was conducted and summary of allegations along with list of prosecution witnesses and copy of documents relevant to departmental enquiry were delivered to the respondent. Thereafter, after considering the statements of witnesses, charge sheet dated 09.12.2002 was framed against the respondent, which was served to him on 13.12.2002. The respondent submitted the application before the Enquiry Officer that he did not intend to produce any witnesses. Thereafter, Enquiry Officer directed the respondent to submit his written defence statement within 7 days, which was submitted by the respondent and Enquiry Officer after considering the submission of witnesses and perusal of the record, relevant to the enquiry, submitted his findings on 18.01.2003 and the charge of willful absence and indiscipline against the respondent were concluded to be proved.

10. A perusal of the record further shows that all rules and instructions were followed by Enquiry Officer while conducting the enquiry. After perusing the statement of prosecution witnesses and record relevant to the enquiry and finding of enquiry officer and enquiry file, the show cause notice for dismissal from service with immediate effect vide order dated 11.03.2003 along with copy of each of finding of enquiry officer, was issued

**RSA-2574-2006 (O&M)****-5-**

to the respondent. He was directed to submit written reply but the respondent instead of submitting his reply again absented himself from duty. The reminder was sent to him on his home address by the appellants through special messenger but he was found absent from his village. The copy of the reminder was delivered to his nephew on 15.04.2003. The respondent filed his reply to the show cause notice on 21.04.2003, which was considered and rejected. The respondent was also afforded opportunity of personal hearing on 24.04.2003 when he pleaded for lenient view. Appellant No. 2 after considering all the aspects of enquiry, dismissed the respondent from service with immediate effect, vide order dated 24.04.2003.

11. Admittedly, the respondent remained absent from duty for 239 days as per the chart reproduced above. As per the reply filed by the respondent, he was under the treatment of *vaid* on the advise of his mother. However, there is nothing on record to prove the same that he was under any treatment. No medical certificate was produced by him.

12. A perusal of the enquiry report further shows that the Enquiry Officer has conducted the enquiry after following due procedure and principles of natural justice, since opportunity of personal hearing was also afforded to the respondent. There is nothing on record to show the length of service of the respondent without which learned First Appellate Court without appreciating the unauthorized absence of the respondent from duty for 239 days and by treating it to be less than 1 year, has converted dismissal of service to order of compulsory retirement, the same is not acceptable to this Court.



13. Now coming to judgment referred to by learned counsel for the appellants in ***Balwinder Singh's case (supra)***, wherein this Court has observed as under:-

We are of the considered opinion that it is settled principle by various judgments 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.

14. The judgments titled as ***Ex. Constable Ranbir Singh vs. State of Haryana, 1999 (2) SCT 58 and Dhan Singh vs. State of Haryana and others, 2008 (3) SCT 816*** by learned counsel for the respondent would not be applicable to the facts of the present case.

15. This Court in ***State of Punjab vs. Constable Daljit Singh, 1198 (2) RSJ 70 and Swaran Singh vs. State of Punjab and another, 2015 (4) PLR 867*** held that in a disciplined force even one day's absence without intimation cannot be ignored.

RSA-2574-2006 (O&M)

-7-

16. In view of the above discussion, judgment and decree dated 14.01.2006 passed by learned District Judge, Gurgaon is set aside. The judgment and decree dated 31.03.2005 passed by Civil Judge (Sr. Divn.), Gurgaon is affirmed.
17. Accordingly, the present regular second appeal is **allowed**.
18. Decree sheet be prepared accordingly.
19. Pending application(s), if any, also stand disposed of.

22.04.2026

Gaurav Arora

(SUDEEPTI SHARMA)
JUDGE

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