



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

CWP-7761-2017

Date of Decision: 13.01.2026

ASI Kewal Krishan

...Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JAGMOHAN BANSAL.

Present:- Mr. Varun Baanth, Advocate for petitioner

Mr. Aman Dhir, D.A.G., Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of orders passed by departmental authorities whereby he was awarded punishment of forfeiture of two increments with permanent effect.

2. The petitioner joined Police Force as Constable on 30.11.1989. The respondent initiated departmental inquiry against him alleging that he remained absent from duty for 128 days. The inquiry officer found him guilty of alleged misconduct and disciplinary authority vide order dated 17.04.2009 awarded him punishment of forfeiture of two increments with permanent effect. He preferred appeal and Appellate Authority vide order dated 05.08.2009 rejected his appeal. He preferred revision which came to be rejected vide order dated 12.06.2014.

3. Learned counsel for the petitioner submits that petitioner had 20 years service to his credit still was punished with forfeiture of increments on the ground of absence from duty. The punishment awarded was harsh. The



Inquiry Officer did not appreciate evidence in true spirit and held him guilty. The higher authorities have passed impugned orders without application of mind. He was medically unfit, thus, could not join office. Absence from duty was beyond his control. The punishment awarded is disproportionate to alleged misconduct.

4. Learned State Counsel reiterated contents of impugned orders and submitted that no interference is warranted because there is no infirmity in the impugned orders.

5. Heard the arguments and perused the record.

6. From the perusal of impugned order, it is evident that petitioner remained absent from duty without informing the department. He did not report at the transferred place within time. Relevant extracts of impugned order are reproduced as below:-

“As per the order of SSP, Jalandhar the departmental enquiry against HC/LR Kewal Krishan 1653/Jalandhar was received to be completed and there was a charge against him that as per the order of D.I.G., Range, Jalandhar, due to his transfer from District Nawanshehar District (Temporary attachment) he was relieved and departed from District Jalandhar to District Nawanshehar on 27.11.07 but HC/LR Kewal Krishan at District did not submit his joining report Nawanshehar within stipulated period of time, due to which his transfer order were cancelled and HC Kewal Krishan after remaining absent from duty for about 128 days 20 hours and 35 minutes reported back at Police Line on 4.4.08. I have scrutinized the documents attached in the departmental enquiry file, original orders, summary of charge, statement of witnesses, complaint, charge-sheet and written reply filed by the delinquent and the medical certificates, very carefully and after careful perusal of the same I have arrived at this conclusion that the charges leveled in the charge-sheet against the delinquent for remaining absent from duty for about 128 days, 20 hours and 30 minutes are clearly proved.”



7. Hon'ble Supreme Court in *Ex Sepoy Madan Prasad v. Union of India and others, (2023) 9 SCC 100* while advertng to disciplinary action in case of absence from duty has held that the Court should not set aside order of dismissal where delinquent is part of Armed Forces and remained absent from duty. The relevant extracts of the judgment read as: -

"11. It is apparent from the above table that the appellant was a habitual offender. There were four red ink entries and one black ink entry against him before the present incident cited at Serial No. (f) above. Such gross indiscipline on the part of the appellant who was a member of the Armed Forces could not be countenanced. He remained out of line far too often for seeking condonation of his absence of leave, this time, for a prolonged period of 108 days which if accepted, would have sent a wrong signal to others in service. One must be mindful of the fact that discipline is the implicit hallmark of the Armed Forces and a non-negotiable condition of service.

XXXX XXXX XXXX XXXX

18. For the aforesaid reasons, we do not find any infirmity in the impugned judgment [Madan Prasad v. Union of India, 2015 SCC Online AFT 887] passed by the AFT. The appellant had been taking too many liberties during his service and despite several punishments awarded to him earlier, ranging from imposition of fine to rigorous imprisonment, he did not mend his ways. This was his sixth infraction for the very same offence. Therefore, he did not deserve any leniency by infliction of a punishment lesser than that which has been awarded to him.

19. Accordingly, the present appeal is dismissed as meritless, while upholding the impugned judgment [Madan Prasad v. Union of India, 2015 SCC Online AFT 887]. The parties are left to bear their own costs."

8. Scope of interference while exercising jurisdiction under Articles 226/227 of the Constitution of India in disciplinary proceedings is very limited.

The Court has no power to look into quantum of sentence/punishment unless



and until Court finds that sentence awarded is disproportionate to alleged offence. It is further settled proposition of law that High Court while exercising its jurisdiction under Article 226 of Constitution of India can look into the procedure followed by authorities. In case, it is found that enquiry officer or disciplinary authority has not considered any evidence on record or misread the evidence or procedure as prescribed by law has not been followed, the Court can interfere. A two-judge Bench of Hon'ble Supreme Court in ***Union of India and others v. Subrata Nath, 2022 SCC Online SC 1617*** while advertng to scope of interference under Article 226 of the Constitution of India in disciplinary proceedings has held that departmental authorities are fact finding authorities. On finding the evidence to be adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct.

9. A Division Bench of this Court while dealing with similar issue vide judgment dated 21.02.2024 passed in ***Balwinder Singh v. State of Punjab and others, LPA No.934 of 2023*** has held that act of remaining absent from duty for a man in uniform is a gravest act of misconduct. The relevant extracts of the judgment read as:

"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 v. Mohinder Singh, 2005 (12) SCC 182 wherein the Apex Court allowed the appeal by noticing that there was absence of 5½ 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."

10. In the instant case, the authorities have duly followed prescribed procedure. There is proper appreciation of evidence on record. The petitioner despite being member of disciplined Police Force was absent from duty. He was awarded punishment of forfeiture of one increment which is incommensurate to alleged misconduct. This Court does not find it appropriate either to interfere with findings of authorities or look into quantum of punishment awarded to him.

11. In the wake of above discussion and findings, this Court is of the considered opinion that present petition being bereft of merit deserves to be dismissed and accordingly dismissed.

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

(JAGMOHAN BANSAL)
JUDGE

13.01.2026
SDK

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