



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

**LPA-1766-2025 (O&M)
Date of decision : 25.08.2025**

Rajinder Kumar

...Appellant

Vs.

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Sukhandeep Singh, Advocate
for the appellant.
Ms. Arundhati Kulshreshtha, AAG, Punjab.

DEEPAK MANCHANDA, J.

CM-4322-LPA-2025

Application is allowed as prayed for.

Annexures A-1 and A-2 are taken on record, subject to all just exceptions.

CM-4323-LPA-2025

This is an application seeking condonation of delay of 634 days in filing the appeal.

For the reasons stated in the application, same is allowed and delay of 634 days in filing the appeal is condoned.

Main case

Through this intra-court appeal, appellant has assailed the impugned judgment dated 24.05.2023, vide which the writ petition filed by the

present appellant challenging the order of his dismissal from service, was dismissed.

2. The facts emanating from the pleadings of the writ petition are that the appellant worked as Constable with the respondent-department and faced trial in FIR No.93 dated 12.07.2009 registered under Sections 27, 54 and 59 of the Arms Act and Section 336 of IPC, but was acquitted vide judgment dated 11.08.2014, however, later on was convicted by the appellate Court vide judgment dated 07.03.2015, and was sentenced to undergo rigorous imprisonment for three years for the offence punishable under Section 27 of the Arms Act and for the period of two months for the offence punishable under Section 336 IPC. Consequently, the appellant was dismissed from service vide order dated 30.03.2015 and preferred an appeal against the order of dismissal. The said appeal was dismissed vide impugned order (Annexure P-5), which had been challenged through the writ petition. In the interregnum, appellant also filed revision against the judgment of conviction i.e. CRR-792-2015, wherein vide order dated 04.07.2019, the conviction was maintained, but was released on probation for one year. The allegations against the appellant were that he was posted at Battalion Headquarter, 5th IRB Amritsar, and on 12.07.2009 was sent for handing over pistol Glock No.17 with ammunition to one Inspector Sukhdev Singh No.480/PAP, the Company Commander, Company D Amritsar. After handing over the said pistol and ammunition, the appellant was supposed to report back but instead of doing so, he fired three shots in public with the same pistol in drunken condition near Bus Stand, Amritsar, which led to registration of the FIR and ultimately resulted in dismissal of appellant from service. The dismissal was challenged through CWP-19489-2020, which was

dismissed vide impugned judgment dated 24.05.2023 and same has been challenged through this intra Court appeal by the appellant.

3. Learned counsel for the appellant contends that learned Single Bench failed to appreciate the fact that neither a show cause notice was issued, nor inquiry was conducted and also no personal hearing was given by the punishing authority before dismissing the appellant from service. He further contends that even as per Rule 16.2 of Punjab Police Rules, 1934 before dismissing appellant, the same had not been complied with before passing of any adverse order. He also contends that the length of service of the appellant should have been considered before passing such an extreme and harsh punishment, which was not done by the authorities and the learned Single Bench totally ignored the factual aspects mentioned in the writ petition and wrongly passed the impugned judgment dated 24.05.2023, which deserves to be set aside.

4. Learned State counsel while referring to the impugned judgment submits that the conduct of the appellant cannot be appreciated being part of the disciplined force, who fired three shots in public place with the pistol in drunken condition which ultimately resulted into registration of FIR. She further submits that the impugned judgment does not require any interference by this Court as the same has been rightly passed keeping in view the conduct of the appellant.

5. Heard.

6. Learned counsel for the appellant has argued that before dismissing the writ petition, the State authorities did not comply with the Rule 16.2 of the Punjab Police Rules, 1934. Hence, dismissal of the appellant from

service is in violation of the said rule. Rule 16.2 of the Punjab Police Rules, 1934 is reproduced herein:-

“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.

[(2) If the conduct of an enrolled police officer leads to his conviction on a criminal charge and he is sentenced to imprisonment, he shall be dismissed :

Provided that a punishing authority may, in an exceptional case involving manifestly extenuating circumstances for reasons to be recorded and with the prior approval of the next higher authority impose any punishment other than that of dismissal :

Provided further that in case the conviction of an enrolled police officer is set aside in appeal or revision, the officer empowered to appoint him shall review his case keeping in view the instructions issued by the Government from time to time in this behalf.]

(3) When a police officer is convicted judicially and dismissed, or dismissed as a result of a departmental enquiry, in consequence of corrupt practices, the conviction and dismissal and its cause shall be published in the Police Gazette. In other cases of dismissal when it is desired to ensure that the officer dismissed shall not be re-employed elsewhere, a full descriptive roll, with particulars of the punishments, shall be sent for publication in the Police Gazette.”

7. Further, the findings recorded by learned Single Bench are extracted below:-

“9. Coming on to the question: “whether the punishment awarded to the petitioner is disproportionate or not?”, it will be apt to peruse the allegations against the petitioner. The petitioner was posted at Battalion Headquarter, Amritsar. On 12th of July, 2009 he was sent for handing over pistol glock No.17 body No. EWY-689 cartridge 30, magazine-2, filler magazine-1, cleaning rod brush along with pistol box issued vide road certificate No.33/09 to Inspector Sukhdev Singh, Company Commander. Departure report of the petitioner was recorded in roznamcha of the battalion Head Quarter with the direction that he will be responsible to report back within one hour at batallion Head Quarter after handing over the same pistol and ammunition to the Inspector Sukhdev Singh, Company Commander. The petitioner failed to report along with the pistol and ammunition. It was discovered that the petitioner fired three shots in public with the same pistol in drunken condition near Bus Stand, Amritsar. This led to registration of FIR. The allegations against the petitioner

*are of having misused the pistol entrusted by the department to him for delivery at a destination. The petitioner misused the same by firing under influence of liquor. The question w.r.t. release on probation also stands laid to rest by the Supreme Court in the case of **Harichand vs. Director of Social Education, (1998) 2 SCC 383** holding as under :*

*“7. In our view, Section 12 of the Probation of Offenders Act would apply only in respect of a disqualification that goes with a conviction under the law which provides for the offence and its punishment. That is the plain meaning of the words "disqualification, if any, attaching to a conviction of an offence under such law" therein. Where the law that provides for an offence and offence and its punishment also stipulates a disqualification, a person convicted of the offence but **released on probation** does not, by reason of Section 12, suffer the disqualification. It cannot be held that, by reason of Section 12, a conviction for an offence should not be taken into account for the purposes of dismissal of the person convicted from Government service.”*

10. In view of afore-stated settled law and the fact of the present case, mere fact that the petitioner has been released on probation cannot be read to hold punishment bad. Further this Court does not find that the 'punishment of dismissal' awarded to the petitioner can be said to be disproportionate to the misconduct alleged against the petitioner. Resultantly, the present writ petition is ordered to be dismissed.

8. A perusal of the impugned judgment would show that learned Single Judge has rightly dismissed the writ petition filed by the appellant by referring the Article 311 of the Constitution of India, 1950 and Rule 16.2 of the Punjab Police Rules, 1934.

9. Rule 16.2 of the Punjab Police Rules deals with the dismissal of a police officer which specifies that the dismissal shall be awarded for the gravest acts of misconduct. The Sub Clause-II of the said Rule further clarifies that if the conduct of an enrolled police officer leads to his conviction on a criminal charge and he is sentenced to imprisonment, he shall be dismissed. In the present case, the allegations against the appellant were that he fired three shots in public place with pistol in drunken condition, which amounts to grave

misconduct as the appellant was a part of disciplined force and such an act is not expected from a police officer. As per the allegations, the appellant misused the weapon entrusted by the department to him for delivery at a destination, by firing under influence of liquor. The learned Single Judge also dealt with the question with regard to release on probation by relying upon the judgment passed by Supreme Court and observed that the mere fact that the appellant had been released on probation, the same cannot be read to hold punishment bad and punishment awarded to the appellant was not disproportionate keeping in view the misconduct alleged against the appellant.

10. The similar issue was dealt by the Supreme Court in the case of *“Union of India and others Vs. Diler Singh”, 2016 (4) SCT 82*, wherein it has been held as under:-

*“22. The learned counsel for the respondent has submitted that even if the charges have been proven, the punishment of dismissal in the obtaining factual matrix is absolutely harsh and shocking to the conscience. It is his submission that the punishment is disproportionate. The respondent was a part of the disciplined force. He has left the campus without prior permission, proceeded to the market, consumed liquor and quarrelled with the civilians. It has been established that he had consumed liquor at the market place, and it has been also proven that he has picked up quarrel with the civilians. It is not expected of a member of the disciplined force to behave in this manner. The submission, as has been noted earlier, is that the punishment is absolutely disproportionate. The test of proportionality has been explained by this Court in *Om Kumar and others v. Union of India*[7], *Union of India and another v. G. Ganayutham*[8] and *Union of India v. Dwarka Prasad Tiwari*[9]. In *Dwarka Prasad Tiwari (supra)*, it has been held that unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the court/tribunal, there is no scope for interference. When a member of the disciplined force deviates to such an extent from the discipline and behaves in an untoward manner which is not conceived of, it is difficult to hold that the punishment of dismissal as has been imposed is disproportionate and shocking to the judicial conscience.”*

11. Resultantly, we are of the considered opinion that there is no illegality in the order of the Single Bench dismissing the writ petition of appellant.

12. Given the above discussion, the present appeal does not succeed and the same is hereby dismissed.

13. All pending miscellaneous application(s) shall also stand disposed of.

(DEEPAK MANCHANDA)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

25.08.2025

vanita

Whether speaking/reasoned :
Whether Reportable :

Yes
Yes

No
No