



CWP-3809-2002

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

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CWP-3809-2002

Date of Decision: 27.08.2025

Ex-Constable Jai Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Gagan Pradeep Singh Bal, Advocate for the petitioner

Mr. Suneel Ranga, Deputy Advocate General, Haryana

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of: -

- i. order dated 09.10.1992 whereby he was dismissed from service;
- ii. order dated 15.07.1999 whereby his appeal was dismissed; and
- iii. order dated 21.09.2000 whereby his revision petition was dismissed.

2. The petitioner joined Haryana Police Force as Constable on 31.05.1974. From March' 1989 to May' 1991, he remained absent from duty for 54 days and 9 hours. During the aforesaid period, he was absent on different occasions for different number of days. The respondent initiated



departmental proceedings against him alleging absence from duty. The Inquiry Officer found him guilty and he was awarded punishment of dismissal from service vide order 09.10.1992. He unsuccessfully preferred appeal and mercy appeal before higher authorities including State Government.

3. Learned counsel for the petitioner submits that petitioner, at the time of passing impugned order, was having 18 years' service to his credit. He was guilty of absence from duty. He was never punished during 1974 to 1989. He remained absent in total for 54 days, thus, punishment of dismissal from service was disproportionate to alleged misconduct.

4. *Per contra*, learned State counsel submits that petitioner concededly remained absent for 54 days on different occasions during March' 1989 to May' 1991. The petitioner was guilty of gravest misconduct, thus, was liable to be dismissed from service.

5. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance.

6. The relevant extracts of order dated 09.10.1992 whereby petitioner was dismissed from service are reproduced as below: -

“On a careful consideration of the entire evidence available on the file, I found the allegations/charges as proved against the delinquent. Accordingly the delinquent was served upon with a show cause notice along with a copy of the findings of the Enquiry Officer by my predecessor vide this office No.242/ST dated 21.2.92 and later on by the him undersigned on 1.9.92 against receipt calling upon him to show cause within 15 days from the receipt of this notice as to



why a penalty of dismissal from the service be not imposed upon him. The delinquent submitted on application requesting therein that his reply in response to the show cause notice issued to him on 1.9.92 may kindly be considered the same reply which he had already been submitted in response to the show cause notice issued to him vide no.242/ST dated 21.2.92 in the same Departmental Enquiry. The delinquent raised the main plea in his reply that due to his illness he remained absent from duty. This plea of the delinquent is rejected being found without any substance because if the delinquent was really ill he should have got himself treated in the nearest General Hospital but he did not do so. It clearly shows that he was not actually ill and the medical certificates produced by him are bogus/arranged issued by the private doctors on payment. Moreover, the delinquent never informed the department nor applied for sanction of leave regarding his illness but absented himself without any leave or permission time and again. It is also pertinent to mention here that the absence of delinquent is neither from any leave nor continues but the same is time and again and relates to different places, dates and years. Hence, it clearly shows that the delinquent was not really ill during his absence period rather he is a habitual absentee and his plea regarding his illness is an afterthought (sic) and concocted one. rest all the contentions raised by the delinquent in his reply have been considered and rejected being found without any force. The delinquent was also heard in person on 18.8.92 but he was nothing to say except to beg pardon.

From the above mentioned facts, it is clear that the delinquent is a habitual absentee, unwilling worker and burden on the department.

I have carefully gone through the enquiry file and found that the charges have been fully proved against the delinquent. Accordingly, I hold the delinquent guilty of the charges levelled against him. Such gravest acts of misconduct on the part of the delinquent is proving his incorrigibility and



complete unfitness for the police service. I feel that no punishment other than dismissal from service will meet the ends of justice. Hence, I award the delinquent (Cont. Jai Singh No.1016/Sirsa) a penalty of dismissal from the service with immediate effect (sic). Order be booked accordingly. A copy of this order be supplied to the delinquent free of cost at his home address as the delinquent is absent from his duty since 5.10.92.”

7. As per Rule 16.2 of Punjab Police Rules, 1934 (as applicable to State of Haryana) (for short ‘PPR’), the competent authority has power to dismiss any police officer if found guilty of grave misconduct. Absence from duty may or may not be gravest misconduct. It all depends upon facts and circumstances. The authorities are duty bound to consider length of absence from duty, reason of absence from duty and occasion of absence from duty. If a Police Officer is absent from duty despite being deputed for a sensitive job, he may be held guilty of gravest misconduct e.g. if a Police Officer is deputed for a particular job and his absence from duty results in some casualty, he may be subjected to higher punishment than a Police Officer who in his ordinary course of service remains absent from duty. In the instant case, there is nothing on record disclosing that petitioner was deputed for a sensitive job and his absence caused irreparable loss. The petitioner was having 18 years’ service to his credit at the time of passing impugned order. As per record, he was not subjected to any other punishment during his service. The respondent considered and adjudicated, by common order, his different periods of absence from duty which was impermissible. Every absence from duty was an independent misconduct.



8. Learned counsel for the petitioner submits that grievance of the petitioner would be redressed if he is paid lump sum amount of ₹5 Lakhs instead of reinstatement. The said amount may be in lieu of gratuity, leave encashment and other benefits.

9. A period of 33 years from the date of passing impugned order has passed away. The punishment awarded to petitioner seems to be harsh and disproportionate to alleged offence. The State Government has reinstated many police officials despite their conviction by Courts. Additional Chief Secretary to Government, Haryana, Home Department in *CWP No.14996 of 2025* has filed an affidavit to the effect that State Government despite conviction of any police official has unbridled and unguided powers to reinstate anyone. If a convicted Police Officer can be reinstated, this Court finds that it would be inappropriate to award punishment of dismissal from service to an officer who remained absent for 54 days in 2 years on different occasions. The respondent did not consider length of service and entitlement of the petitioner to pension.

10. Prayer of learned counsel for the petitioner seems to be just and fair. Accordingly, this Court, instead of setting aside impugned orders and directing the respondents to release all retiral/service benefits of the petitioner, directs respondents to pay a sum of ₹5 Lakhs to the petitioner. The said amount would be released within 2 months from today failing which respondent would be liable to pay interest @7.5% per annum from the date of passing dismissal order i.e. 09.10.1992. The payment shall be made only to the petitioner. The legal heirs of the petitioner shall not be entitled to any benefit.

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11. Learned counsel for the petitioner shall bring outcome of this writ petition in the knowledge of the petitioner who shall appear before jurisdictional Superintendent of Police within 2 months from today to claim afore-stated amount.

12. The petition stands disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

27.08.2025
Mohit Kumar

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