



LPA-366-2025 (O&M)

-1-

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

111

LPA-366-2025 (O&M)

Date of decision : 16.09.2025

Balwant Singh

... Appellant

Versus

State of Punjab and others

.. Respondents

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

Present:- Mr. Preetwinder Singh Dhaliwal, Advocate
for the applicant/appellant.

Anupinder Singh Grewal, J. (Oral)

CM-926-LPA-2025

1. This is an application seeking condonation of delay of 310 days in filing the appeal.
2. Learned counsel for the applicant/appellant submits that the appellant had earlier preferred review application seeking recalling/modification of the judgment passed by the Single Bench. The review application was dismissed on 14.11.2024 and therefore, the time which the appellant had consumed while pursuing the other remedy ought to be excluded at the time of computation of the period of limitation. He also submits that the delay is *bonafide* and not intentional.
3. Issue notice in the application to the non-applicants/respondents.

**LPA-366-2025 (O&M)****-2-**

4. At the asking of the Court, Ms. Arundhati Kulshreshtha, AAG, Punjab, accepts notice on behalf of the respondents and pleads no objection to the condonation of delay.

5. Heard.

6. The applicant/appellant had earlier preferred an application seeking recalling/modification of the impugned judgment, which was dismissed by the Single Bench. He, thereafter, preferred the present LPA. The delay does not appear to be intentional or deliberate. It would be in the interest of justice if the delay is condoned and the appeal be heard and decided on merits.

7. Consequently, the application is allowed and delay of 301 days in filing the appeal is hereby condoned.

CM-927-LPA-2025

1. Allowed as prayed for.

LPA-366-2025

1. The appellant has challenged the judgment passed by the Single Bench whereby the writ petition preferred by the appellant seeking grant of compassionate allowance, has been dismissed.

2. Learned counsel for the appellant submits that the appellant had rendered 21 years of service and therefore, the length of service ought to have been considered for granting him pensionary benefits or in the alternative, compassionate allowance. He also submits that the appellant could not challenge the order of dismissal earlier due to family circumstances as his wife was suffering from a serious ailment and the son of the appellant had also



expired. He further submits that pension being a recurring cause of action, the writ petition ought not to have been dismissed on account of delay and laches.

3. Issue notice to the respondents.

4. At the asking of the Court, Ms. Arundhati Kulshreshtha, AAG, Punjab, accepts notice on behalf of the respondents and submits that in view of serious misconduct of absence from duty without leave for a period of 06 months, the dismissal of the appellant from service was justified. She also submits that the appellant had served for a period of 19 ½ years and thus, he does not have the 'minimum qualifying service of 20 years' to be eligible for pension.

5. Heard.

6. The appellant joined the Punjab Police as a Constable and was working as such. He was found absent from duty on 09.03.2010. Disciplinary proceedings were initiated against him for willful absence from duty without leave. He was issued several notices requesting him to join the inquiry, but he did not do so and was ultimately proceeded *ex-parte*. Upon conclusion of the inquiry, the charges against the appellant were found to be proved. Thereafter, the disciplinary authority had passed the order of dismissal on 18.12.2010 (Annexure P-1). In 2023, the appellant had preferred the writ petition challenging the order of dismissal.

7. It is manifest that the appellant had remained absent from duty for about 06 months i.e., from 09.03.2010 till his dismissal on 18.12.2010. He had preferred the writ challenging his dismissal 13 years after the order had been passed. We are in agreement with the judgment of the Single Bench that the



writ petition was liable to be dismissed on account of delay and laches. The explanation offered by the counsel for the appellant is vague and has not been substantiated. In any event, it is not sufficient to condone the huge delay of 13 years in challenging the order of dismissal. In the event of the appellant being aggrieved thereagainst, he ought to have been diligent and preferred the writ petition challenging the order of dismissal promptly. A litigant cannot sleep over his rights, wake up from his slumber and knock at the doors of the constitutional court after long lapse of time. Reference can be made to the judgment of the Supreme Court in the case of **Hameed Joharan versus Model Salem, AIR 2001 SC 3404**, wherein it was observed as under:

*“It cannot, but be the general policy of our law to use the legal diligence and this has been the consistent legal theory from the ancient times. Even the doctrine of prescription in Roman Law prescribes such a concept of legal diligence and since its incorporation therein, the doctrine has always been favoured rather than claiming dis-favour. Law courts never tolerate an indolent litigant since delay defeats equity. The Latin maxim ‘Vigilantibus non dormientibus jure subveniunt’ (law assists those who are vigilant and not those who are indolent). As a matter of fact, lapse of time is a species for forfeiture of right. Wood, V.C. in **Manby v. Bewicke, (3 K. & J. 342 at 352)** stated:*

“..the legislature has in this, as in every civilized country that has ever existed, thought fit to prescribe certain limitations of time, after which persons may suppose themselves to be in peaceful possession of their property and capable of transmitting the estates of which they are in possession, without any apprehension of the title being impugned by litigation in respect of transactions which occurred at a distant period, when evidence in support of their own title may be most difficult to obtain.”



8. It has also been submitted that pension being a recurring cause of action, the writ petition ought not to have been dismissed on account of delay. We do not find any merit in this submission for the reason that the appellant had been dismissed from service and the dismissal itself entails forfeiture of pensionary benefits. A perusal of the order of dismissal passed against the appellant reveals that penalty of dismissal was a consequence of the proven misconduct. The service record of the appellant was also not unblemished. It is seen that there is a reference to the fact that 10 years of service of the appellant had been forfeited as a result of his absence from duty on previous occasions. He had also been awarded punishment of censure on ten prior occasions. Furthermore, unauthorized/willful absence from duty for a long period, in the instant case- for a period of 06 months, itself amounts to grave misconduct, warranting dismissal from service. Reference can be made to the judgment of the Supreme Court in the case of ***State of U.P. v. Ashok Kumar Singh, (1996) 1 SCC 302***, and the relevant extract thereof is reproduced hereunder:-

“7. Strangely, the High Court interfered with the punishment of removal, while concurring with the findings rendered against the first respondent on the charges levelled against him, by observing as follows:

“The Presiding Officer of the Tribunal has passed a very detailed order in which he enumerated the circumstances under which the inquiry was conducted. The enquiry officer found the petitioner to have absented from duty on several occasions, totalling 251 days during the year 1981-82 while posted at Police Station Ram Sanehi Ghat, 93 days in 1982 while posted at Police Station Safdarganj and from 28-2-1984 onwards on being subsequently posted at Police Station Ram Sanehi Ghat. The petitioner has submitted



before the Tribunal as well as here that during all along this period he had fallen ill and he sent regular applications for grant to leave along with the medical certification. No such proof was ever filed by the petitioner before the Tribunal.

Xxx xxx

In the present case the only charge against the petitioner was that he absented himself from duty for long periods although it was his case that he applied for grant of leave. Even if it is assumed that the petitioner, against whom there appears to be no charge of misconduct of grave nature, has proved his absence from duty would not amount to such a grave charge for which the extreme penalty of dismissal may be imposed. In view of the fact that the petitioner has offered/not to claim arrears of salary as well as he assurance (sic) this Court that he would discharge his duties faithfully and sincerely this Court is of the view that extreme penalty imposed against the petitioner does not commensurate with the gravity of the charge, hence this writ petition deserves to succeed on this point. However, it will be open for the opposite parties to impose any minor punishment against the petitioner.

In view of what has been indicated hereinabove the writ petition succeeds. The order of dismissal passed against the petitioner contained in Annexure 3 is quashed. The opposite parties will reinstate the petitioner on duty. However, it will be open for the opposite parties to impose any minor punishment upon the petitioner considering the charges. It is made clear that the petitioner will be entitled only to the extent of one fourth of the amount as back wages.”

8. We are clearly of the opinion that the High Court has exceeded its jurisdiction in modifying the punishment while concurring with the findings of the Tribunal on facts. The High Court failed to bear in mind that the first respondent was a police constable and was serving in a disciplined force demanding strict adherence to the rules and procedures more than any other department. Having noticed the fact that the first respondent has absented himself from duty without leave



on several occasions, we are unable to appreciate the High Court's observation that "his absence from duty would not amount to such a grave charge". Even otherwise on the facts of this case, there was no justification for the High Court to interfere with the punishment holding that "the punishment does not commensurate with the gravity of the charge" especially when the High Court concurred with the findings of the Tribunal on facts. No case for interference with the punishment is made out."

9. Reference can also be made to the judgment of the Supreme Court in the case of **State of Punjab and others versus Ex. C. Satpal Singh, 2025 SCC OnLine SC 1848** wherein it was observed as under:-

"In light of the judicial precedents cited above, when the factual matrix of the present case is appreciated, it is seen that the reference to the fact of forfeiture of 17 years of service of the respondent as a result of his absence from service on previous occasions was in exclusion or independent of the misconduct for which the enquiry officer has found him guilty. The consideration of the past misconduct of the respondent was not the effective reason for dismissing him from the service. The disciplinary authority had mentioned the past misconduct of the respondent only for adding the weight to the decision of imposing the punishment.

32. We have perused the show cause notice and the order of dismissal passed against the respondent. After going through the same, it is clear that penalty of dismissal is a consequence of proved misconduct. Therefore, the order impugned is within the first part of Rule 16.2 (1) of the Rules. While passing the order dismissing the appeal, the disciplinary authority recorded the finding that the act of absence of the respondent from duty is a grievous act of misconduct. The respondent was appointed as a constable in the Punjab Armed Forces and then transferred to the Commando Force, which is a disciplined force. The authority while passing the order has referred to his previous act of



LPA-366-2025 (O&M)

-8-

absence from duty besides proving a gravest act of misconduct leading to the order of dismissal.”

10. In view of the aforementioned facts and circumstances, we do not find any manifest illegality in the judgment of the Single Bench dismissing the writ petition. Consequently, the appeal stands dismissed.

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

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

September 16, 2025

sonia gugnani

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