



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

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**CWP-8938-2015**

**Date of Decision: 13.10.2025**

Raj Singh (Now Deceased Through LRs)

...Petitioner

Versus

State of Haryana and Others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Sandeep Singh Sangwan, Advocate and  
Mr. Rajvir Malik, Advocate  
for the petitioner.

Mr. Ravi Partap Singh, DAG, Haryana.

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**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 19.03.2001 whereby he was dismissed from service;

(ii) Order dated 04.01.2002 whereby appeal against order of dismissal was rejected;

(iii) Order dated 09.07.2002 whereby revision was dismissed; and

(iv) Order dated 03.10.2002 whereby mercy petition was dismissed.

2.            The petitioner joined Haryana Police Force as Constable on 02.12.1988. He was promoted as Head Constable in 1993. He was dismissed from service vide order dated 19.03.2001. He unsuccessfully challenged order of dismissal before Appellate Authority. He further filed

revision before Director General of Police (**DGP**) which was dismissed vide order dated 09.07.2002. His mercy appeal also came to be dismissed by Home Department.

3. Learned counsel for the petitioner submits that petitioner had 12 years' service to his credit still was dismissed from service on the ground of absence from duty. The punishment awarded was harsh. The respondent did not consider length of service as well as petitioner's entitlement to pension. The absence from duty does not fall within expression 'gravest act of misconduct'.

4. I have heard learned counsel for the parties and perused the record with their able assistance.

5. From the perusal of impugned order, it is evident that petitioner was a habitual absentee and was subjected to punishment on multiple occasions. His past record was duly considered by authorities.

Details of his past punishments/absence are reproduced as below:

<b>Sr. No.</b>	<b>Period of absence</b>	<b>Number of days</b>	<b>Status of absence period</b>
1.	04.03.81 to 07.03.81	4 days	4 days Causal Leave and 7 days punishment drill.
2.	05.08.89 to 05.08.89	1 day	1 day Casual Leave
3.	20.12.89 to 23.12.89	3 days	3 days Casual Leave
4.	24.12.89 to 31.12.89	8 days	8 days Casual Leave
5.	09.05.91 to 19.05.91	1 day	1 day Casual Leave
6.	12.01.93 to 22.01.93	10 days	Awarded punishment 'censure' vide OB No.303/94
7.	26.02.96 to 06.04.96	133 days	As result of final outcome of regular department inquiry the petitioner was awarded punishment of stoppage of two annual increments with temporary effect vide order No.488/ST dated 30.10.98, OB No.323/98
8.	16.07.96 to 03.08.96		
9.	16.08.96 to 07.09.96		
10.	20.10.96 to 14.12.96		
11.	07.01.97 to 27.02.97	50 days	As result of final outcome of regular department inquiry the petitioner was awarded punishment of stoppage of one annual increment with temporary effect vide order

			No.489/ST dated 30.10.98, OB No.323/98
12.	12.10.96 to 13.10.96	1 day	1 day Casual Leave
13.	20.07.97 to 21.07.97	1 day	1 day Casual Leave
14.	25.04.97 to 02.05.97	7 days	7 days Casual Leave
15.	15.11.97 to 12.06.98	209 days	105 days Earned Leave on full pay 104 days earned Leave on half pay.
16.	09.02.98 to 10.02.98	1 day	1 day Causal Leave
17.	<b>27.02.2000 to 07.09.2000</b>	<b>193 days</b>	<b>Dismissed from service vide order dated 19.03.2001 passed by SP/Jind, under challenge</b>
18.	13.11.2000 to 05.01.01	<b>52 days</b>	<b>DE was kept pending due to dismissal from service</b>
19.	10.01.2001 to 20.01.2001 And 07.03.2001 to 19.03.2011 till dismissal	<b>24 days</b>	<b>Undecided</b>

6. Supreme Court in *Ex Sepoy Madan Prasad v. Union of India and others (2023) 9 SCC 100* while adverting 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.*

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*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.”*

7. 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 vs. Subrata Nath, 2022 SCC OnLine SC 1617*** while adverting 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.

8. A Division Bench of this Court while dealing with similar

issue in *Balwinder Singh versus State of Punjab and others (LPA-934-2023, decided on 21.02.2024)*, 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 Vs. 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.”*

9. 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 a habitual absentee. He did not mend his behaviour in spite of being subjected to punishment on multiple occasions. In these facts and circumstances, this Court does not find it appropriate either to interfere with findings of authorities or look into quantum of punishment awarded

to him.

10. In the backdrop, this Court is of the considered opinion that the present petition being bereft of merit deserves to be dismissed and accordingly hereby dismissed.

**(JAGMOHAN BANSAL)**  
**JUDGE**

**13.10.2025**

*Prince Chawla*

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No