



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

**CWP No. 30216 of 2025
Date of Decision:13.10.2025**

Darshan Singh

....Petitioner

VS.

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Ms. Parveen Dharwal, Advocate for
Mr. Gunjan Mehta, Advocate
for the petitioner

Mr. Ashok Kumar Khubbar, Addl. A.G., 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:

1. Order dated 29.06.2006 (Annexure P-2) whereby he was dismissed from service;
2. Order 24.10.2006 (Annexure P-4) whereby his appeal was dismissed; and
3. Order dated 11.08.2011 (Annexure P-6) whereby his revision was dismissed.

2. The petitioner joined Haryana Police Force as Constable on 05.12.1988. He was relieved from Police Lines, Kaithal on 28.04.2005 to join at Police Station Guhla Chika. On account of illness, he could not join within stipulated period and reported back for duty on 20.01.2006. He was



issued notice for absence from duty. The respondent conducted regular departmental inquiry. He was found guilty in the departmental inquiry. He was issued show cause notice proposing punishment of dismissal from service. He was dismissed from service vide order dated 29.06.2006. He preferred appeal before Inspector General of Police, Ambala Range which was rejected vide order dated 24.10.2006. He filed revision before Director General of Police which came to be dismissed vide order dated 11.08.2011. He preferred mercy petition before State Government vide Diary No.3865 dated 03.05.2013. He was called for personal hearing to be held on 07.01.2014. He appeared for hearing but no hearing was conducted. He preferred CWP-7180-2016 before this Court which was disposed of vide order dated 26.04.2022 with a direction to respondent to decide his mercy petition within two months. The respondent vide order dated 13.06.2023 dismissed his mercy petition.

3. Learned counsel for the petitioner submits that petitioner had 18 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. Relevant



extracts of impugned order disclosing his past record are reproduced as below:-

“1. In the year 1990, he was awarded punishment of 15 days drill for remaining absent from a period of 11 days 9 Hours, 13 minutes and the period of absence was treated as leave period.

2. During the year 1994, he was awarded punishment of 'stoppage of 3 future annual increments with permanent effect' for remaining absent from duty from 29.07.1993 to 02.09.1993 (34 days, 11 hours 30 minutes). However, the said punishment was reduced to 'stoppage of 01 annual increment with temporary effect' in the appeal filed by the petitioner vide order dated 17.11.2000 passed by the appellate authority.

3. During the year 1994, he was awarded punishment of 'stoppage of 01 increment with permanent effect' for remaining absent on 04.05.1994 from attending tear smoke course at PTC Madhuban.

4. During the year 1996 he remained absent from 27.11.1996 to 22.12.1996 and the period of 20 days was treated as leave without pay.

5. During the year 2005, he was awarded punishment of 'stoppage of 04 annual increment with permanent effect' for remaining absent from duty for a period of 104 days, 20 hours 05 minutes.

6. During the year 2006, he was dismissed from service vide impugned order dated 29.06.2006 for remaining absent from duty for a total period of 266 days without any leave or prior permission of competent authority.



6. 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

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 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.

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
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	