IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

****

208 **CWP-22757-2018**
Date of Decision: 01.12.2025

SANYOGITA ...Petitioner

Vs.

STATE OF HARYANA AND ORS. …Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Akash Sheoran, 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 order dated 17.08.2001 (Annexure P-3) whereby her husband was dismissed from service. She is further seeking direction to respondent to release pension and other benefits of her husband.

2. The petitioner's husband joined Haryana Police Force as Constable on 12.10.1989. She claims that her husband fell ill in 2000. He was suffering from mental disorder. Due to illness, on 25.01.2000 he sent application for premature retirement. The respondent recorded his absence in DDR No.38 dated 30.06.2000. He reported back on 10.02.2001 despite illness. The respondent conducted departmental inquiry for his absence from duty for 7 months and 10 days. The Inquiry Officer found him guilty of alleged misconduct. The Disciplinary

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Authority awarded him punishment of dismissal from service. He preferred an appeal before IGP, Gurugram who vide order dated 10.06.2002 dismissed the same. He preferred revision which came to be rejected vide order dated 30.10.2002 passed by DGP.

3. As per reply filed by State, the petitioner's husband was a habitual absentee. He remained absent for 378 days during his 11 years service. He was awarded following punishments:-

a) Censure vide order dated 31.01.1994 for absence from duty.

b) Censure vide order book No. 144/96 for absence from duty.

c) Censure vide order book No.237 / 96 for negligence in duty.

d) Censure vide order book No. 150/96.

e) Stoppage of 5 future annual increments with permanent effect vide order dated 12.02.2001 for absenting himself 2 months 20 days.

f) Stoppage of 5 future annual increments with permanent effect vide order dated 12.02.2001 for absenting himself 52 days.

g) Dismissal from services vide order dated 17.08.2001 for absenting himself 225 days.

4. In view of his absence period and punishments, he was not having qualifying service to his credit for pension and other benefits.

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5. Learned counsel for the petitioner submits that petitioner's husband was suffering from mental illness. On account of illness, he could not perform his duty as a normal police official. He was requesting respondent to grant him retirement under Voluntary Retirement Scheme (for short 'VRS').

6. The employee was having about 10 years' service and was not eligible for VRS. His claim was not covered by Rule 9.18 of Punjab Police Rules, 1934 (as applicable to State of Haryana) (in short 'PPR'). In any case, no order on his application for VRS was passed and he has not pointed out any Rule which provides for admission of application seeking VRS just after completing 10 years' service.

7. 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*

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> *service.*
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> *XXXX XXXX XXXX*
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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."*

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*

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> *his father which would be clear from the order of dismissal."*

9. 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 punishment unless and until it finds that awarded punishment 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 v. 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. The Hon'ble Supreme Court has considered its judicial precedents including a two-judge Bench judgment in "***Union of India and Others v. P. Gunasekaran"*** **(2015) 2 SCC 610**.

10. In the instant case, the authorities have duly followed prescribed procedure. There is proper appreciation of evidence on record. The employee despite being member of disciplined Police Force was a

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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

11. In the wake of above discussion and findings, this Court is of the considered opinion that the instant petition deserves to be dismissed and accordingly dismissed.

12. Pending application(s), if any, stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

December 01, 2025
Deepak DPA

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

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