



202 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-14407-2013 (O&M)
Date of Decision: 15.01.2026

Surinder Kumar

...Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Ashok Kumar Nabhewala, Advocate and
Ms. Gauri Sharma, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of Annexure P-24 whereby a Committee of Officers has rejected his claim for counting dismissal period in the length of service.

2. The petitioner joined Punjab Police as Constable on 20.05.1970. He remained absent from duty during 06.08.1980 to 11.08.1980 as well as 19.08.1980 to 01.09.1980. The respondent initiated departmental inquiry wherein he was found guilty of absence from duty. The Disciplinary Authority vide order dated 01.04.1980 dismissed him from service. He filed civil suit which was decreed vide judgment dated 19.03.1983 passed by learned Sub Judge, Ist Class, Patiala. The State further filed ***RSA No.3336 of 1985*** assailing judgment of Lower Courts. This court vide order dated 20.08.1986 allowed aforesaid RSA. He filed ***CWP No.8747 of 1988*** before this Court which was dismissed vide order

dated 30.04.1988. He again preferred **CWP No.18656 of 1991** before this Court which was dismissed in view of dismissal of earlier writ petition. He filed third **CWP No.5909 of 1998** which was disposed of by Lok Adalat vide order dated 10.12.1999 with a direction to respondent to decide his mercy petition. The Home Department vide order dated 15.09.2000 rejected his mercy petition. He again filed mercy petition before Chief Minister which was allowed vide order dated 03.11.2003 passed by Principal Secretary, Home Affairs and Justice Department. The punishment of dismissal from service was reduced to stoppage of one increment with cumulative effect. While reinstating, the respondent observed that dismissal period shall be treated as *dies non*. He preferred appeal against order dated 05.11.2003 to the extent his dismissal period was treated as *dies non*. The said appeal was rejected by State Government. He preferred **CWP No.18701 of 2009** before this Court seeking setting aside of order dated 03.11.2003 to the extent his absence period was treated as *dies non*. The said petition was disposed of with a direction to respondent to reconsider his representation and pass a speaking order within a period of three months. The respondent constituted a Committee to reconsider claim of the petitioner. The Committee by impugned order rejected his claim. The Committee formed an opinion that petitioner's seven years' service stood forfeited out of ten years' service at the time of order of dismissal from service. He cannot be granted benefit of dismissal period as given to Constable Sardool Singh.

3. Learned counsel representing the petitioner submits that as per Rule 16.28 (2) of Punjab Police Rules, 1934 (for short '**PPR**'), the Reviewing Authority while setting aside of order of dismissal is required

to state whether dismissal period can be treated as suspension or not. The said Authority is further required to state whether service previous to dismissal should count for pension or not. The respondent while setting aside order of dismissal did not consider his case in true spirit and wrongly declared dismissal period as *dies non*. The petitioner was not required to be treated as suspended and dismissal period was required to be counted for pension. He was dismissed from service for absence from duty. The respondent finally awarded him punishment of forfeiture of one increment with permanent effect. At the time of dismissal from service, he had already worked for 11 years. The order of punishment of forfeiture of one increment related back to date of dismissal from service. The petitioner is entitled to salary for the dismissal period. He at the most can be treated as suspended during the said period. The dismissal period is further required to be counted towards length of service.

4. *Per contra*, learned State counsel submits that petitioner availed multiple remedies against dismissal from service order. This Court vide order dated 20.08.1986 passed in ***RSA No.3336 of 1985*** upheld order of dismissal from service. He filed a spate of petitions before this Court which were dismissed. On the direction of this Court, his mercy petition was considered and rejected. He again filed mercy petition before Chief Minister which was allowed. The petitioner was ordered to be reinstated on sympathetic ground. It was not a case of acquittal whereas he was awarded punishment of stoppage of one increment. The Authorities had discretion to treat dismissal period either as on duty or absence from duty. The Authorities exercised their power in accordance with law and declared absence period as *dies non*.

5. Heard the arguments and perused the record
6. From the perusal of record, it is evident that petitioner was dismissed from service vide order dated 01.04.1981. He filed civil suit which came to be decreed. The State filed appeal which came to be dismissed vide order dated 29.07.1985 passed by learned Additional District Judge, Patiala. The State filed **RSA No.3336 of 1985** before this Court which was allowed vide order dated 20.08.1986. In the order dated 20.08.1986, it was noted that petitioner has been punished on six occasions in his ten years' service and was recorded to be an incorrigible type. The relevant extracts of order dated 20.08.1986 read as:

“Faced with this situation, counsel for the respondent police constable, sought to contend that the punishment awarded was unwarranted keeping in view the nature of the misconduct found against him. The emphasis here being upon rule 16.2 of the Punjab Police Rules, Volume-1, which speaks of dismissal being the appropriate punishment for gravest acts of misconduct. This again is a contention which cannot be accepted as it is now well-settled that courts will not interfere with the discretion exercised by police officers in the matter of the imposition of punishment except, where such discretion is found to have been exercised wantonly or arbitrarily which is clearly not the case here.

Further as noticed by the lower appellant Court, the previous record of constable Surinder Kumar showed that he had got six punishments in his 10 years of service and was recorded to be an ‘incorrigible type’. Further, his being on leave without permission was found to be willful absence in order to avoid the Refresher Course. The punishment imposed upon him thus calls for no interference.

The impugned order of dismissal thus suffers from no infinity and in this view of the matter, the judgment and

decree of the lower appellate court is hereby set aside and the suit of the plaintiff-Surinder Kumar is hereby dismissed. There will, however, be no order as to costs.”

7. The petitioner after order dated 20.08.1986 passed by this Court in ***RSA No.3336 of 1985*** preferred writ petition which was dismissed. He filed second writ petition which was also dismissed. He filed third writ petition which was disposed of with a direction to respondent to consider his mercy petition. The Home Department rejected his mercy petition. He again filed mercy petition before Chief Minister which was allowed. The dismissal order was modified and he was awarded punishment of forfeiture of one increment with permanent effect. The respondent while reinstating him specifically recorded that his absence period would be treated as *dies non*. The petitioner started filing petitions/representations against order dated 03.11.2003 to the extent his dismissal period was treated as *dies non*. He filed petition before this Court which was disposed of with a direction to respondent to reconsider his claim. The respondent constituted a Committee which at length considered his claim. The Committee considered his past record and found that his seven years' service was forfeited at the time of order of dismissal from service. The findings of Committee stand vindicated by findings recorded in order dated 20.08.1986 passed by this Court in ***RSA No.3336 of 1985***. The respondent was duty bound to consider status of absence period while passing order of reinstatement. As per applicable Rules i.e. Rule 10.70 of PPR and Rules 7.3, 7.3A or 7.3B of Punjab Civil Services Rules, Volume I, Part I, the petitioner was entitled to back wages as well as counting of dismissal period towards length of service had he been honourably exonerated. The petitioner was not exonerated while

passing order of reinstatement. He was awarded punishment of stoppage of one increment with cumulative effect. In such circumstances, it was discretion of authorities to give treatment to his period of dismissal from service. The authorities could order to count said period towards length of service or treat as absence period. The authority formed an opinion that dismissal period should be treated as *dies non*. The Committee has duly considered his claim and formed an opinion that there is no infirmity in the order dated 03.11.2003 whereby petitioner's absence period has been ordered to be treated as *dies non*.

8. It is apt to mention here that as per PPR, the petitioner had remedy to file appeal before DIG against order of dismissal from service. He had further remedy to file revision before IGP/DGP. There was no provision of further mercy petition. It is Rule 16.32 of PPR which contemplates mercy petition. The mercy petition is alternative of revision petition. Rule 16.28 of PPR empowers State Government to review order passed by authorities below. This Court vide judgment dated 23.09.2025 passed in '**Krishan Kumar @ Krishan Lal Versus State of Haryana and Others**', **CWP No.14996 of 2025** has held that orders passed by Revisionary Authority/Appellate Authority cannot be reviewed by State in exercise of power conferred by Rule 16.28 of PPR. In the instant case, the order of dismissal from service was upheld by this Court in **RSA No.3336 of 1985**. The State Government had no authority to disturb order passed by this Court, nevertheless, at the first instance, rejected mercy petition and thereafter allowed petitioner's mercy petition. The petitioner was given benefit despite orders of this Court. Action of respondent was in defiance of orders of this Court. The petitioner despite

illegally getting respite of reinstatement in service has approached this Court for further relief. Act and conduct of petitioner is deprecable.

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

(JAGMOHAN BANSAL)
JUDGE

15.01.2026
Prince Chawla

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