CNR No: PHHC010430812022
2026:PHHC:186630

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-8934 of 2022

Ex. Sepoy Dilawar Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

Sr. No.	Particulars	
1.	The date when the judgment is reserved	24.09.2026
2.	The date when the judgment is pronounced	07.10.2026
3.	The date when the judgment is uploaded on the website	07.10.2026
4.	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Ms. Sukhjeet Kaur, Advocate,
for Mr. Amandeep Saini, Advocate,
for the petitioner.

Mr. Siddharth Sandhu, AAG, Punjab.

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NAMIT KUMAR, J.

1. The instant petition has been filed by the petitioner under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of *certiorari* for quashing the impugned orders dated 11.08.2008 (Annexure P-1), order dated 29.07.2015 (Annexure P-3), order dated 17.03.2016 (Annexure P-4) and order dated 03.07.2020 (Annexure P-6), whereby the petitioner has been dismissed from

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service and his appeal(s) and revision have been rejected by the appellate and revisional authorities.

2. Brief facts of the case are that the petitioner was appointed as Constable in the Security Wing, Punjab, Chandigarh, on 11.08.1994. He proceeded on earned leave for 45 days from 19.02.2007 to 04.04.2007. His earned leave was extended by the respondents on 03.04.2007 from 05.04.2007 to 13.06.2007 followed by another extension from 14.06.2007 to 02.08.2007, but he did not report back on his duty in time and remained wilfully absent on 03.08.2007. Due to continuous absence, an absence report was recorded in *roznamcha* 7th Battalion, PAP, JRC on 03.08.2007, vide DDE No.11. Thereafter, three notices were sent at his residential address for resuming his duty, but he did not turn up. Consequently, petitioner was placed under suspension and a regular departmental enquiry was initiated against him vide order dated 07.12.2007. The enquiry officer sent him notice regarding initiation of departmental enquiry against him and to join enquiry proceedings. Despite issuance of various notices, petitioner did not join enquiry proceedings. Enquiry officer obtained ex parte order for completion of enquiry from the competent authority. A notice dated 20.05.2008 was sent at his residential address through special messenger informing him about continuance of departmental enquiry in ex parte proceedings and supplied him with a copy of charge sheet. He was directed to supply a list of his defence witnesses and to join enquiry. The said notice was received by his wife on 26.05.2008, despite that he did not join the enquiry proceedings. Enquiry officer

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submitted the final enquiry report to the punishing authority. Punishing authority issued a show-cause notice dated 09.06.2008 to the petitioner, proposing therein punishment of dismissal from service, treating the absence period as non-duty period and the suspension period as suspension and he was directed to submit his reply or appear in person before the punishing authority within 10 days, but he neither submitted any reply nor appeared before the punishing authority. Thereafter, despite issuance of two more notices, petitioner did not submit his reply nor appeared in person. Consequently, the punishing authority confirmed the proposed order by dismissing the petitioner from service, absence period treated as non-duty period and suspension period treated as suspension, vide order dated 11.08.2008 (Annexure P-1). Aggrieved against the order of his dismissal, petitioner preferred a departmental appeal, which was rejected by respondent No.3, vide order dated 29.07.2015 (Annexure P-3) on the ground of delay. Petitioner preferred second appeal, which too was rejected, vide order dated 17.03.2016 (Annexure P-4). Further appeal filed by the petitioner against the order dated 17.03.2016 was also rejected on 18.08.2016 and appeal filed against the order dated 18.08.2016 was also rejected, vide order dated 23.09.2018. Thereafter, petitioner preferred revision petition, which too was rejected by respondent No.1, vide order dated 10.05.2017. Aggrieved against the order dated 23.09.2018, petitioner filed writ petition bearing CWP No.23933 of 2019 titled “Ex. Sepoy Dilawar Singh v. State of Punjab and others”, which was disposed of by this Court, vide order dated 26.09.2019 (Annexure P-5), with a

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direction to the respondents to pass fresh orders by considering the case of the petitioner on merits and as per his contentions raised in the appeal. In compliance of order of this Court dated 26.09.2019, revision petition of the petitioner was rejected, vide impugned order dated 03.07.2020 (Annexure P-6), by Inspector General of Police, PAP Jalandhar Cantt. Hence, the instant writ petition.

3. Respondents have filed written statement stating that the petitioner was enlisted as a constable on 11.08.1994. While he was posted in security wing Punjab Chandigarh, proceeded on 45 days earned leave from 19.02.2007 to 04.04.2007. Thereafter, he applied for extension of leave which was extended from 05.04.2007 to 03.06.2007 (60 days), from 04.06.2007 to 13.06.2007 (10 days) and from 14.06.2007 to 02.08.2007 (50 days). The petitioner did not report back on his duty after availing of his leave and absented himself willfully on 03.08.2007. An absence report was also recorded in the *roznamcha* 7th Battalion, PAP, JRC on 03.08.2007 vide DDE No. 11. Despite repeated notices and opportunities to resume duty and to participate in the departmental enquiry, the petitioner neither joined duty nor participated in the proceedings, resulting in *ex parte* enquiry. It is further stated that the petitioner had gone abroad (U.K.) without informing the department and that his wife had acknowledged his absence and continued contact with him on telephone. Moreover, the petitioner did not obtain Ex-India leave and not disclosed about his foreign visit even in his application of 45 days earned leave. Only after due consideration of the enquiry report and the material on record, the

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competent authority dismissed the petitioner from service, vide order dated 11.08.2008, treating the absence period as non duty and the suspension period as suspension. Further, the defence taken by the petitioner with regard to head injury/memory loss appears to be an afterthought, as no such information or authentic medical record was furnished by petitioner to the department at the relevant time. Therefore, the continuous and willful absence from duty amounts to a gravest act of misconduct in uniformed police department and the orders passed by the competent authorities are legal, valid, lawful, Constitutional and under the provisions of Punjab Police Rules and were passed after proper application of mind.

4. The only limited prayer of the petitioner as recorded in the order dated 16.08.2022 and argued, is for grant of pension considering the fact that while dismissing him from service, his period of service rendered was not taken into account for grant of pension in terms of Rule 16.2 of the Punjab Police Rules. Learned counsel for the petitioner contended that the petitioner had rendered 11 years and 09 months of regular service, therefore, he is entitled for pensionary benefits. He further contended that pension cannot be denied merely because the petitioner was dismissed from service.

5. *Per contra*, learned State counsel submitted that there is no provision under the rules for grant of pension to an employee, who has been dismissed from service, therefore, the petitioner is not entitled for the said benefit.

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6. I have heard learned counsel for the parties and perused the record.

7. The facts are not in dispute that the petitioner was appointed as a Constable in the Security Wing, Punjab, Chandigarh, on 11.08.1994. He proceeded on 45 days' earned leave from 19.02.2007 to 04.04.2007, which was subsequently extended up to 02.08.2007. He, however, failed to resume duty thereafter and remained absent from 03.08.2007 onwards. On account of his continued absence, he was placed under suspension and a departmental enquiry was initiated. Despite repeated notices, the petitioner did not join the enquiry proceedings, resulting in an ex parte enquiry. Thereafter, a show-cause notice dated 09.06.2008 proposing dismissal from service was issued to him, but he neither submitted his reply nor appeared before the punishing authority despite further opportunities. Consequently, the petitioner was dismissed from service vide order dated 11.08.2008, with the absence period treated as non-duty and the suspension period as suspension. His subsequent departmental appeals and revision were rejected, leading to the filing of the present writ petition.

8. In the present case, the petitioner was neither superannuated in the ordinary course nor did he retire voluntarily in accordance with the applicable pension provisions. His service came to an end by way of dismissal imposed as a disciplinary penalty after departmental proceedings. The consequence of such dismissal has, therefore, to be determined in accordance with the applicable pension rules. It is also material that the disciplinary proceedings were not

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founded upon a mere technical or isolated absence. The petitioner remained absent from duty without permission or intimation. Unauthorized absence from duty, particularly by an employee holding a post where regular attendance and discipline are integral to the functioning of the establishment, constitutes serious misconduct. An employee cannot claim a right to remain absent from duty at his convenience and thereafter seek to neutralize the consequences of such conduct by relying upon the length of service rendered by him. Public service carries with it corresponding obligations of discipline, punctuality and obedience to lawful orders. Where an employee repeatedly disregards these obligations and the competent authority, after following due process, concludes that the misconduct warrants dismissal, no interference is warranted.

9. The contention that the petitioner had rendered substantial service and was, therefore, entitled to pension notwithstanding dismissal, cannot be accepted. The pensionary entitlement cannot be determined in isolation from the statutory consequences of dismissal. Once the applicable pension rules provide for forfeiture of past qualifying service consequent upon dismissal, the petitioner cannot claim pension by relying merely upon the period for which he served before dismissal. Rajasthan High Court in ***Union Of India, through The Secretary, Ministry of Home Affairs, New Delhi v. R. Unnikrishan, 2007(22) SCT 472 : 2007 Law Finder (Rajasthan) 573*** has held that where the pension rules expressly provide for forfeiture of past service upon dismissal, a dismissed employee cannot claim

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pension merely because a disciplinary penalty relating to pension had not separately been imposed.

10. Similar issue has been dealt with by a Co-ordinate Bench of this Court in ***CWP-3993 of 2011 – Malook Singh (since deceased) through his LRs v. State of Punjab and others, decided on 21.02.2025, 2025 NCPHHC 25452***, wherein it has been held as under:-

> *"8. Pension is governed by The Punjab Civil Services Rules and Punjab Police Rules, 1934 (in short "PPR"). Chapter II Volume-II of said Rules provides for General Provisions relating to grant of pensions. Rule 2.5 provides that pension may not be granted to a government employee who is dismissed or removed for misconduct, insolvency or inefficiency, however, he may be granted compassionate allowance. Rule 2.5 of Chapter II Volume-II of The Punjab Civil Services Rules reads as:-*
>
> > *"No pension may be granted to a Government employee dismissed or removed for misconduct, insolvency or inefficiency; but to Government employee so dismissed or removed, compassionate allowances may be granted when they are deserving of special consideration: Provided that the allowance granted to any Government employee shall not exceed two-thirds of the pension which would have been admissible to him if he had retired on medical certificate.*
> >
> > ***Note 1**.–This rule vests Government with an absolute discretion to grant or not to grant any compassionate allowance, the only restriction being that if granted, it shall not exceed the maximum of two-thirds of the pension that would be admissible to the officer concerned on retirement on medical*

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certificate. It is practically impossible in view of the wide variations that naturally exist in the circumstances attending each case, to lay down categorically, precise principles that can uniformly be applied to individual cases. Each case has, therefore, to be considered on its merits and a conclusion has to be reached on the question whether there were any such extenuating features in the case as would make the punishment awarded, though it may have been necessary in the interest of Government, unduly hard on the individual. In considering this question it has been the practice to take into account not only the actual misconduct or course of misconduct which occasioned the dismissal or removal of the officer, but also the kind of service he has rendered. Where the course of misconduct carries with it the legitimate inference that the officer"s service has been dishonest there can seldom be any good case for a compassionate allowance. Poverty is not an essential condition precedent to the grant of a compassionate allowance, but special regard is also occasionally paid to the fact that the officer has a wife and children dependent upon him, though this factor by itself, is not, except perhaps in the most exceptional circumstances, sufficient for the grant of a compassionate allowance.

***Note 2**.–The report of the Accountant-General is required in all cases of grant of compassionate allowances.*

***Note 3**.–No Government employee even if belonging to a class entitled to commute ordinary pension, is entitled to commute a compassionate allowance; a*

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commutation to such an allowance may be sanctioned by a competent authority only on proof that the proceeds of the commutation will be invested for the permanent benefit of the commutor's family.

***Note 4**.–In cases, where it is proposed to grant to a Government employee dismissed or removed form service, a compassionate allowance, the sanctioning authority should not condone deficiencies in service, for the purpose of determining the amount of pension that would have been admissible to him if he had retired on medical certificate on the basis of which the compassionate allowance is calculated."*

9. From the perusal of aforesaid Rule, it is evident that a dismissed employee is not entitled to pension, however, he may be paid compassionate allowance in special circumstances. The petitioner was dismissed from service and his dismissal order stands upheld, thus, his qualifying service lost significance. If pension is extended on the basis of length of service, the order of dismissal or removal from service would become meaningless.

10. Rule 16.2 of PPR provides that disciplinary authority while passing order of dismissal from service shall take care of length of service and claim of pension. The order of dismissal from service has been upheld, thus, petitioner cannot claim pension as a matter of right.

*11. The petitioner is relying upon judgment of this Court in **Manohar Lal (Supra**) wherein different set of Rules are discussed. Rule 2.5 of The Punjab Civil Services Rules was not brought in the knowledge of learned Single Judge.*

12. Rule 9.18 of PPR also provides for pension. It categorically provides that retiring pension is granted to an officer who is permitted to retire from service or who is

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compulsorily retired after completing qualifying service. For the ready reference, Rule 9.18 of 1934 Rules is reproduced as below:-

> *"**Retiring pension** - (1) A retiring pension is granted to an officer -*
>
> > *(a) who is permitted to retire from service after completing qualifying service for twenty-five years or such lesser period as may, for any class of officers, be pre-scribed; or*
> >
> > *(b) who is compulsorily retired under sub-rule (2) after completing ten years' qualifying service.*
>
> *(2) The Inspector-General of Police may, with the previous approval of the State Government, compulsorily retire any Police Officer, other than that belonging to Indian Police Service or Punjab State Police Service, who has completed ten years' qualifying service, without giving any reasons. An officer who is so compulsorily retired will not be entitled to claim any special compensation for his retirement.*
>
> ***Note 1**. - The right to retire compulsorily shall not be exercised except when it is in the public interest to dispense with the further services of an officer, such as on account of inefficiency, dishonesty, corruption or infamous conduct. Thus the rule is intended for use -*
>
> > *(i) against an officer whose efficiency is impaired but against whom it is not desirable to make formal charges of inefficiency or who has ceased to be fully efficient (i.e., when an officer's value is clearly incommensurate with the pay which he draws) but not to such*

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a degree as to warrant his retirement on a compassionate allowance. It is not the intention to use the provisions of this rule as a financial weapon, that is to say, the provision should be used only in the case of an officer who is considered unfit for retention on personal as opposed to financial grounds;

(ii) in cases where reputation for corruption, dishonesty or infamous conduct is clearly established even though no specific instance is likely to be proved.

***Note 2**. - The officer shall be given an adequate opportunity of making any representation that he may desire to make against the proposed action, and such representation shall be taken into consideration, before his compulsory retirement is ordered. In all cases of compulsory retirement of enrolled police officers, the Inspector-General of Police shall effect such retirement with the previous approval of the State Government in accordance with the instructions, if any, issued by the Government on the subject from time to time.*

(3) The officer, whose duty it would be to fill up the appointment if vacant, shall record his orders on the application to retire, which, if in vernacular, should be accompanied by a translation in English. If the officer who applies for pension, is permitted to retire, the application shall be forwarded with the pension papers (vide Article 906 and 930, Civil Service Regulations).”

13. The aforesaid Rule makes it clear that pension is available to a person who is permitted to retire after

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> *completing qualifying service or who is compulsorily retired after completing qualifying service. The intent and purport of aforesaid Rule is to deny pension to those persons who are dismissed from service. If pension is granted irrespective of punishment including dismissal from service, Rule 9.18 of PPR would lose its significance. This Court is of the considered opinion that if pension or other pensionary benefits are granted despite dismissal from service, every police official would be entitled to pension on the basis of his length of service."*

11. Moreover, the petitioner remained willfully absent from duty from 03.08.2007 onwards. He went abroad (England) without seeking ex-India leave from the department and without informing the department of his visit. While passing the order of dismissal, the punishing authority also considered his claim for pension. The petitioner was dismissed from service vide order dated 11.08.2008 (Annexure P-1). He thereafter remained silent for nearly six years and ten months and preferred an appeal against the order of his dismissal only thereafter, which was rejected by the Appellate Authority, vide order dated 29.07.2015 (Annexure P-3). His subsequent revision was also considered and rejected vide order dated 03.07.2020 (Annexure P-6) by passing a detailed order. In the said order, it has been specifically recorded that he has failed to produce any medical treatment record in support of the medical certificate dated 15.05.2015 (Annexure P-2).

12. In view of the above, this Court is of the considered opinion that the claim advanced by the petitioner is bereft of any statutory foundation. The petitioner has failed to establish any

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enforceable legal right entitling him to the relief of pension. Consequently, finding no merit in the present petition, the same is dismissed.

(NAMIT KUMAR)
JUDGE

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R.S.

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No

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