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

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Date of Decision: 21.07.2025

Arshad

...Petitioner

Vs.

State of Haryana and Ors.

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Mohammad Arshad, Advocate
for the petitioner

Mr. Shashank Bhandari, Addl. A.G. Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Article 226/227
of the Constitution of India is seeking setting aside of:-

- i. charge sheet dated 05.12.2023 (Annexure P-1),
- ii. show cause notices dated 27.01.2024 and 29.03.2024
(Annexure P-2 and P-3);
- iii. order dated 20.06.2024 (Annexure P-5), vide which
he was dismissed from service;
- iv. order dated 16.10.2024 (Annexure P-7), vide which
his appeal was dismissed; and



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v. order dated 21.02.2025 (Annexure P-9) *vide* which
his revision was dismissed

2. The petitioner joined Haryana Police Force as Constable on 06.04.2012. On 12.01.2023, he proceeded on one week leave. He did not join duty after completion of leave period. He was placed under suspension *vide* order dated 01.09.2023. The respondent appointed Inquiry Officer, however, the petitioner opted not to join the proceedings and the Inquiry Officer proceeded *ex parte*. He was found guilty. The Disciplinary Authority issued a show cause notice dated 27.01.2024. In the show cause notice, it was pointed out that he has remained absent from the duty on more than 40 occasions and was subjected to major and minor punishments. He filed reply to show cause notice. He came to be dismissed *vide* order dated 20.06.2024 by the Disciplinary Authority. He unsuccessfully preferred appeal before the Appellate Authority and further unsuccessfully preferred revision before the Revisionary Authority.

3. Mr. Mohammad Arshad, Advocate submits that act of petitioner was not gravest misconduct warranting severe punishment of dismissal from service. He was concededly absent from the duty, however, could not be awarded punishment of dismissed from service as contemplated by Rule 16.2 of Punjab Police Rules, 1934 as applicable to State of Haryana (in short 'PPR'). It is settled proposition of law that punishment of dismissal from service under Rule 16.2 of PPR is awarded



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in case of gravest misconduct. The Courts time and again have held that absence from duty cannot be called as gravest misconduct warranting dismissal from service.

4. The petitioner concededly remained absent from duty for more than 300 days which compelled the authorities to pass order of dismissal from service. The Disciplinary Authority as well as Appellate Authority has considered past conduct of the petitioner. The Disciplinary Authority in the show cause notice itself has underscored past conduct of petitioner. It was noticed that he remained absent on 42 occasions during his short service of 12 years. The Appellate as well as Revisionary Authority also considered past conduct of the petitioner. It was noticed that he was awarded four major punishments and his 19 increments with permanent effect were forfeited during short span of 12 years service. The operative portion of order dated 16.10.2024 passed by the Appellate Authority reads as:-

“5. I have examined the appeal of the appellant, relevant departmental enquiry file & other relevant record and found that the departmental enquiry has been conducted as per procedure. There are sufficient incriminating evidences on file/record which proves the allegations levelled against him. It is evident from the record placed on file that the appellant deliberately did not join the departmental proceedings, even after asked to join a number of times by the Enquiry Officer in writing, which forced/compelled the



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Enquiry officer to get the orders of Ex. party proceedings for departmental enquiry, from the Punishing authority. Furthermore, the examination of medical documents revealed that medical documents produced by the appellant are photocopies of original documents (having alteration in date). Some of the documents belong to the treatment of evil soul/black magic by a Tantrik (exorcist). The appellant was recruited in police department in the year 2012. Out of 12 years of service he has remained absent (42 times) from duty for almost 6 years which speaks the kind of discipline he maintains in a disciplined force. Hence, I did not find any merit in the appeal of the appellant and the same is hereby rejected.

6. The appeal is disposed off accordingly. An entry be made in the character roll of the appellant and also in the HRMS data base. A copy of the order be supplied to the appellant free of cost. However, as per provisions of 16.32 of PPR, 1934, he may submit his revision petition to the next higher authority i.e. DGP, Haryana, within a month of the date of receipt of appellate orders to him.”

5. The operative portion of order dated 21.02.2025 passed by the Revisionary Authority reads as under:-

“Whereas, the revisionist was heard in person through webex video conferencing on 20.02.2025. During the Course of hearing, the revisionist submitted that he was not medically fit, hence, his absence from duty was beyond his control. Further, he pleaded for



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exoneration. I have carefully examined all relevant documents i.e. revision petition submitted by the revisionist, departmental enquiry file and orders passed by the Punishing and Appellate Authority. The departmental enquiry has been conducted in accordance with laid down procedure and has no legal infirmity in it. Charges against the revisionist stand proved. The revisionist did not bother to submit his request for sanction of leave to the higher authorities. I have also perused service record of the revisionist. Apart from instant punishment, he had been awarded 04 major punishments during his service span of 12 years and 19 increments with permanent effect had already stands stopped in departmental proceedings. I am very well aware of the fact that previous punishment should not have impact while deciding new case. However, case of the revisionist is an exceptional case. A disciplined force cannot afford to retain a habitual offender like the revisionist. Continued misconduct has proved incorrigibility and complete unfitness of the revisionist for Police service. Hence, I do not find any reason to interfere with orders passed by the Punishing Authority and Appellate Authority. Accordingly, revision petition is dismissed being devoid of merit.”

6. The petitioner was concededly part of disciplined force and was bound to strictly follow the rules and regulations. Armed Forces cannot retain any indisciplined member. It is not case of the petitioner that he, for the first time, committed alleged offence and was subjected to harsh punishment. Had the alleged offence been his first offence, this



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Court could consider principle of proportionality and ask the respondents to reconsider quantum of punishment, however, as noted above, the petitioner was a habitual offender and was punished more than once. The case of the petitioner is squarely covered by judgment of Apex Court in ***Ex Sepoy Madan Prasad v. Union of India and others, (2023) 9 SCC 100***. 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 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.



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19. Accordingly, the present appeal is dismissed as meritless, while upholding the impugned judgment [Madan Prasad v. Union of India, 2015 SCC OnLine AFT 887]. The parties are left to bear their own costs.”

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

(JAGMOHAN BANSAL)
JUDGE

21.07.2025
Deepak DPA

Whether Speaking/reasoned	Yes
Whether Reportable	Yes