

**(2013) 07 P&H CK 0303**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Letters Patent Appeal No. 1530 of 2012 (O and M)

Gurjit Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

**Date of Decision:** July 1, 2013

**Hon'ble Judges:** Surya Kant, J; Surinder Gupta, J

**Bench:** Division Bench

**Advocate:** Girish Agnihotri, with Mr. Vijay Pal, for the Appellant; J.S. Puri, Additional Advocate General, Punjab, for the Respondent

**Final Decision:** Partly Allowed

**Judgement**

Surya Kant, J.

This letters patent appeal assails the order dated 22.3.2012 of learned Single Judge dismissing the appellant's writ petition wherein he laid challenge to the order of his dismissal from service dated 27.12.2006. The appellant was a Constable in Punjab Police. The impugned orders are suggestive of his being a habitual absentee who was found willfully absent from duty on several occasions and was repeatedly punished before dismissal from service on account of absence from duty for two months and one day. The record however also reveals that against the previous punishment orders, the appellant pursued departmental remedies and in most of the cases, the Revisional Authority allowed his appeals in part to the extent that the matters were remanded to the Appellate Authority for a fresh decision(s). However, the said Authority declined to decide the matters on merits because meanwhile the appellant was dismissed from service.

2. Since the punishment of dismissal from service can be imposed under Rule 16.2 of the Punjab Police Rules on the basis of gravest misconduct only, it would essentially entitle the Disciplinary Authority to consider the appellant's entire service record including previous punishment orders as the same have some bearing on the ultimate punishment given to the appellant. This Court thus passed the following order on 14.12.2012.

Learned senior counsel appearing for the appellant has pointed out that while passing the order of termination of service, the disciplinary authority should have taken into consideration the previous record of the appellant, details whereof are given in the order passed by the disciplinary authority. From the perusal thereof, it appears that the appellant was earlier given punishment in 8 cases. It is pointed out that in most of these cases, punishment orders were set aside by the appellate authority and matters remanded back to the disciplinary authorities. However, disciplinary authorities have consigned those matters to record only on the ground that the appellant, in the meanwhile, has been dismissed from service vide the impugned orders....

3. It is not disputed by Mr. J.S. Puri, learned Additional Advocate General, Punjab, that after the cases were remanded by the Revisional Authority, the Appellate Authority did not decide the appeals on merits on the premise that meanwhile the appellant was dismissed from service.

4. In the light of these facts and situation, we allow this appeal in part and modify the order under appeal with a direction to the Appellate Authority that wherever the matters have been remanded by the Revisional Authority for re-consideration of the appellant's departmental appeal, let those appeals be decided on merits irrespective of the subsequent dismissal order passed against him. Suffice it to observe that if the Appellate Authority exonerates the appellant in those departmental matters and such exoneration has any effect on the dismissal order passed subsequently, the appellant shall be at liberty to approach the Disciplinary Authority for re-consideration of the matter. Dasti.