2024:PHHC:043607

2026:PHHC:024732

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA-2439 of 1993

State of Punjab and another

.....Appellants

Versus

Satnam Singh

.....Respondent

1.	**Reserved on**	**:**	**29.01.2026**
2.	**Pronounced on**	**:**	**17.02.2026**
3.	**Uploaded on the website**	**:**	**17.02.2026**
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 : Mr. Surya Kumar, AAG, Punjab
for the appellants.

Mr. K.G. Chaudhary, Advocate
for the respondent.

NAMIT KUMAR, J.

1. Instant Regular Second Appeal has been preferred against the judgment and decree dated 08.06.1993, passed by learned District Judge, Gurdaspur, vide which the appeal preferred by the appellants has been dismissed and judgment and decree dated 30.09.1992, passed by learned Sub Judge III Class, Gurdaspur, decreeing the suit of the respondent-plaintiff for declaration, has been upheld.

2. Parties to the *lis* hereinafter shall be referred to as per their original position before the learned Trial Court. Briefly stated, the plaintiff was appointed as Constable in the Punjab Police. The services of the plaintiff were terminated by defendant No.2, vide order dated

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20.06.1990 on being absent from duty without obtaining any leave or permission from his superiors. It was pleaded by the plaintiff that no charge-sheet or show-cause notice was issued to him; no departmental enquiry was ever conducted against him and he was not afforded any personal hearing before passing the impugned order. The plaintiff, therefore, filed a suit for declaration to the effect that the impugned order dated 20.06.1990, terminating the services of the plaintiff under Rule 12.21 of the Punjab Police Rules was illegal, unlawful, ultravires, against the principles of natural justice and not binding on the plaintiff and he still continues to be in service and is entitled to all service benefits, including pay and allowances with consequential relief.

3. The defendants contested the suit by filing written statement and raised preliminary objections that the suit was not maintainable in the present form; suit was premature as the plaintiff had not filed any appeal against the discharge order and the civil Court had no jurisdiction to try the suit of the plaintiff. On merits, it was submitted that the plaintiff was appointed against a temporary vacancy and he had absented himself from the training centre without any permission and leave. The plaintiff never reported back for training till the passing of discharge order. It was further submitted that no departmental enquiry was required under Rule 12.21 of the PPR. The suit filed by the plaintiff was decreed by the trial Court, vide judgment and decree dated 30.09.1992 by relying upon the judgment of the Hon'ble Supreme Court in ***Smt. Rajinder Kaur v. Punjab State and another, AIR 1986 SC 1790*** and the judgments of this Court in ***Punjab***

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State through Secretary to Government of Punjab, Home Department, Chandigarh and another v. Joginder Singh, Ex-Constable, 1989(3) SLR 665; Rajinder Singh v. The State of Haryana and others, 1989(2) SLR 79, wherein the discharge under Rule 12.21 of the Punjab Police Rules on account of alleged absence was held to be impermissible. The said judgment of the trial Court was assailed by the State before the first appellate Court, however, the said appeal was dismissed, vide judgment and decree dated 08.06.1993, whereby the findings recorded by the trial Court were upheld. The said judgments and decrees passed by the trial Court and the first appellate Court have been assailed in the instant Regular Second Appeal.

4. Learned State counsel has argued that the judgments of the learned Trial Court and the First Appellate Court deserve to be set aside as the order of discharge was passed strictly in accordance with Rule 12.21 of the PPR and it is a simple order of discharge carrying no stigma and the same is in consonance with the provisions of Rule 12.21 of the PPR. In support of his contention, he has placed reliance upon the judgments of the Hon'ble Supreme Court in ***State of Punjab and others v. Sukhwinder Singh, 2005(5) SCC 569; The State of Punjab and others v. Jaswant Singh, 2023(9) SCC 150;*** Full Bench judgment of this Court in ***Sher Singh v. State of Haryana, 1994(3) SCT 1*** and Single Bench judgment of this Court in ***The State of Punjab and others v. Manjinder Singh, 2025(4) SLR 493***.

5. *Per contra*, learned counsel for the respondent/plaintiff has supported the findings recorded by the learned Trial Court and the First

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Appellate Court and has submitted that the same do not suffer from illegality or perversity and deserves to be upheld. It has further been submitted that the respondent-plaintiff was discharged from service on account of alleged absence from duty, however, he had been sanctioned leave from time to time by the competent authority. On 07.04.1990 also, he was granted one day's casual leave, however, due to illness he could not report for duty, therefore, he was wrongly discharged from duty vide order dated 20.06.1990, which has rightly been set aside by both the Courts. He has placed reliance upon judgments of Hon'ble Supreme Court in ***Smt. Rajinder Kaur v. Punjab State and another, 1986(4) SCC 141; State of Haryana v. Jagdish Chander, 1995(2) SCT 427*** and ***Ex-Constable Sukhwinder Singh v. State of Punjab and others, 1995(3) RSJ 654***, and the judgments of this Court in ***Krishan Kumar v. State of Haryana and others, 1999(2) SCT 574; The State of Punjab v. Sain Dass, 2009(1) SCT 602; State of Punjab v. Sukhwinder Singh, 2001(2) RSJ 32*** and ***Joginder Singh's case (supra)***.

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

7. The substantial question of law which arises for consideration in the present case is that "whether the order dated 20.06.1990, whereby the respondent/plaintiff, who was on probation, was discharged from service, has been passed in accordance with the provisions of Rule 12.21 of the PPR, and whether the said order is an order of discharge simpliciter or amounts to an order of punishment?

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8. The respondent/plaintiff has been discharged, vide order dated 20.06.1990 under Rule 12.21 of the PPR by the Senior Superintendent of Police, Batala. The relevant extract of the said order reads as under:-

> *"Recruit Constable Satnam Singh No.2716/BTL. of this district has been found quite unsuitable to be retained in Police Force and is not likely to become a good police officer. He is therefore, discharged from the police force with effect from 8.4.90 F.N. under rule 12.21 of Punjab Police Rules, Volume II, vide O.S. No.553/90 dated 18.6.90."*

9. Rule 12.21 of the PPR, under which the said order of discharge has been passed, reads thus:-

> *"12.21. **Discharge of Inefficients.**—A constable who is found unlikely to prove an efficient police officer may be discharged by the Superintendent at any time within three years of enrolment. There shall be no appeal against an order of discharge under this rule."*

10. Similar issue has been considered by a Coordinate Bench of this Court in ***Manjinder Singh's case (supra)*** wherein the judgments of the Hon'ble Supreme Court and Full Bench judgment of this Court in ***Sher Singh's case (supra)*** have been considered and it has been held as under:-

> *"15. The Three Judges Bench of the Hon'ble Supreme Court of India in the case of **"State of Punjab and others vs. Sukhwinder Singh" reported as 2005(5) SCC 569** while considering a similar case in which a similar order of discharge had been passed under Rule 12.21 of the Punjab Police Rules, 1934, had observed that the impugned order therein was in accordance with Rule 12.21 of the Punjab Police Rules, 1934 and the order of discharge was innocuous and could not be said to be punitive in nature and thus, set aside the judgment passed by the High Court as well as by the trial Court and the Ist Appellate Court and allowed the appeal filed by the State of Punjab. It had further been observed that the High Court was clearly in error in holding that the respondent's*

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absence from duty was the foundation of the order, on account of which an enquiry was required to be conducted under Rule 16.24 (ix) of the Rules. Importantly, the judgment in the case of ***Rajinder Kaur (supra)****, which was relied upon by the trial Court to decree the suit of the present plaintiff was held to be bad law and it was observed by the Three Judges Bench of the Hon'ble Supreme Court that they were unable to agree with the view taken in the said case. It was also observed that it was the consistent view of the Hon'ble Supreme Court that even in case some kind of preliminary inquiry or fact-finding inquiry was required to be held, then also the order of discharge of probationer could not be treated to be an order of punishment, as the appointing authority has to necessarily ascertain all the relevant facts before taking a decision as to whether the probationer should be retained in service or not.*

16. It was also observed by the Hon'ble Supreme Court in the abovesaid case that the High Court had built an edifice on the basis of a statement made in the written statement to the effect that the respondent therein was a habitual absentee during his short period of service and had on the said basis concluded that it was his absence from duty that weighed in the mind of Senior Superintendent of Police to pass the order of discharge which was viewed to be punitive in nature by the High Court calling for a regular inquiry under Rule 16.24 of the Rules. After noticing the observations of the High Court, the Hon'ble Supreme Court in the abovesaid case had observed that the High Court had gone completely wrong in drawing an inference that the order of discharge dated 16.03.1990 was based upon misconduct and was therefore punitive in nature. The present case is similar to the case in the abovesaid judgment. The relevant part of the said judgment is reproduced hereinbelow:-

> *".....****The decision to discharge a probationer during the period of probation or the order to terminate the service of a temporary employee is taken by the appointing authority or administrative heads of various departments, who are not judicially trained people****. The superior authorities of the departments have to take work from an employee and they are the best people to judge whether an employee should be continued in service and made a permanent employee or not having regard to his performance, conduct and overall suitability for the job.* ***As mentioned earlier a probationer is on test and a temporary employee has no right to the post. If mere holding of an inquiry to ascertain the***

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relevant facts for arriving at a decision on objective considerations whether to continue the employee in service or to make him permanent is treated as an inquiry "for the purpose of imposing punishment" and an order of discharge or termination of service as a result thereof "punitive in character", the fundamental difference between a probationer or a temporary employee and a permanent employee would be completely obliterated, which would be wholly wrong.

20. In the present case neither any formal departmental inquiry nor any preliminary fact-finding inquiry had been held and a simple order of discharge had been passed. ***The High Court has built an edifice on the basis of a statement made in the written statement that the respondent was a habitual absentee during his short period of service and has concluded therefrom that it was his absence from duty that weighed in the mind of Senior Superintendent of Police as absence from duty is a misconduct. The High Court has further gone on to hold that there is direct nexus between the order of discharge of the respondent from service and his absence from duty and, therefore, the order discharging him from service will be viewed as punitive in nature calling for a regular inquiry under Rule 16.24 of the Rules.*** *We are of the opinion that* ***the High Court has gone completely wrong in drawing the inference that the order of discharge dated 16.3.1990 was, in fact, based upon misconduct and was, therefore, punitive in nature, which should have been preceded by a regular departmental inquiry****. There cannot be any doubt that the respondent was on probation having been appointed about eight months back. As observed in* ***Ajit Singh v. State of Punjab*** *the period of probation gives time and opportunity to the employer to watch the work, ability, efficiency, sincerity and competence of the servant and* ***if he is found not suitable for the post, the master reserves a right to dispense with his service without anything more during or at the end of the prescribed period, which is styled as period of probation. The mere holding of preliminary inquiry where explanation is called from an employee would not make an otherwise innocuous order of discharge or termination of service punitive in nature. Therefore, the High Court was clearly in error in holding that the respondent's absence from duty was the foundation of the order,***

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> ***which necessitated an inquiry as envisaged under Rule 16.24(ix) of the Rules***.
>
> *21. For the reasons discussed above, we are of the opinion that the view taken by the High Court and also by the lower courts is wholly erroneous in law and must be set aside.* ***The appeal is accordingly allowed and the judgment and decree passed by the High Court and also by the learned Sub-Judge and learned Additional District Judge are set aside. The suit filed by the plaintiff-respondent is dismissed.****"*

17. In the above said judgment, even the judgment of the Hon'ble Supreme Court in the case of ***State of Punjab and others vs. Balbir Singh (supra)****, which has been relied upon by the learned counsel for the respondent, was considered and after considering the same, the appeal of the State of Punjab was allowed. The facts in the case of* ***Sukhwinder Singh (supra)****, as has been stated hereinabove, are similar to the facts of the present case. In the said case, the employee Sukhwinder Singh had joined on 04.08.1989 as Police Constable and he had absented himself from his duty w.e.f. 22.02.1990 and thereafter the Senior Superintendent of Police had passed the order dated 16.03.1990 discharging him from service. The order of discharge in the said case, which is similar to the order passed in the present case is reproduced hereinbelow:-*

> *"Constable Sukhwinder Singh No. 644/ASR of this District is discharged from service w.e.f. 16-3-1990 under the Punjab Police Rules 12.21 as he is not likely to become an efficient police officer."*

18. The Hon'ble Supreme Court in the said judgment had also referred to the Full Bench judgment of the Punjab and Haryana High Court in the case of ***Sher Singh vs. State of Haryana reported as (1994) 1 Punj LR 456*** *in which scope and content of Rules 12.21, 19.3 and 19.5 had been examined and it had been observed that an employee appointed on probation has no right to the post and his services are terminable at any time during the period of three years and he can secure his position in the service only in case he convinces the Superintendent of Police that he is likely to prove to be an efficient police officer and that in case the Superintendent of Police finds that a particular constable is not active, disciplined, punctual, courteous etc., then he can reasonably form an opinion that he is not likely to prove to be an efficient police officer and thus can invoke his power under Rule 12.21 and can discharge the constable from the force. After recording the observation of the Full Bench in the abovesaid case, the Hon'ble Supreme Court had observed that they were in*

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agreement with the view taken by the Full Bench of this Court.

19. The judgment of the Hon'ble Supreme Court of India in the case of ***State of Punjab and others vs. Sukhwinder Singh (supra)*** *has further been referred to in the latest judgment of the Hon'ble Supreme Court of India titled as* ***"State of Punjab and others vs. Jaswant Singh" reported as (2023) 9 SCC 150****. Even in the said case of* ***Jaswant Singh (supra)****, the order of discharge was similar to the order of discharge as passed in the present case. The Hon'ble Supreme Court after considering the entire law and the facts of the case, observed that all the three Courts i.e., trial Court, Ist Appellate Court as well as the High Court had misconstrued Rule 12.21 of PPR and had decreed the suit filed by the plaintiff therein, although by looking to the contents of the order of discharge, there was no foundation of misconduct alleged in the order and the said order was an order simpliciter of discharge of a probationer constable. It was observed that the discharge order had been passed on account of prolonged absence from training which showed to the authorities that the Constable had no sense of responsibility and thus, could not prove to be a good and efficient police officer. The order of discharge in the said case, which was reproduced in paragraph 5 of the said judgment, as well as the relevant portion of the abovesaid judgment are reproduced hereinbelow:-*

> *"5. In furtherance to the said recommendation, the SSP passed the order dated 28.03.1991, discharging the respondent-plaintiff. The said order is relevant and for ready reference is being reproduced as under:*
>
> *"ORDER*
>
> ***Constable Jaswant Singh No. 1669/ASR s/o Shri. Hazara Singh, caste Jat, R/o Village Thoba, PS Ramdass, Police District Majitha is hereby discharged from service under PPR 12.21 as he is not likely to become an efficient police officer. His absent period from 24.11.1990 to date is treated as non-duty non pay****.*
>
> *Issue orders in OB.*
>
> *Sd/-*
> *Sr. Superintendent of Police,*
> *Amritsar*
>
> *No. 11369 – 76/B Dated 28.3.1991"*

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22. In our considered view, all ***the three courts misconstrued Rule 12.21 of PPR and decreed the suit filed by the respondent- plaintiff. Looking to the contents of the order of discharge****, in the considered opinion of this Court,* ***there is no foundation of misconduct alleged in the order and it is an order of simpliciter discharge of a probationer constable****. The judgment in Ratnesh Kumar Choudhary relied upon by the respondent is of no help for the simple reason that in that case, the initial appointment was alleged to be illegal based on a vigilance report which was on record. Thereafter, notice was issued on the anvil of the said vigilance report which contained serious allegations and in the said peculiar situation, the Court found that the termination was not simpliciter, but it was punitive."*

20. Even in the above said case, it was on account of absence of the employee that the order of discharge had been passed. The argument of there being no detailed enquiry was accepted by the trial Court as well as the Ist Appellate Court and the High Court. However, the Hon'ble Supreme Court, after considering the entire law, set aside the judgment passed by all the three Courts and dismissed the suit filed by the employee therein.

21. In the present case, neither it is in dispute nor it is the case of the respondent before this Court that a bare reading of the order of discharge shows that it is punitive or stigmatic. No malafide against the competent authority who had passed the order has been alleged. The fact that the respondent-plaintiff was appointed on 11.11.1989 and was on probation is also not disputed. Even the power of the Senior Superintendent of Police under Rule 12.21 of the Punjab Police Rules to discharge an employee within a period of three years of his enrollment has also not been disputed. The fact that the respondent-plaintiff had absented himself from duty without leave from 02.12.1990 to 19.01.1991 i.e., 47 days 19 hours and then from 19.01.1991 to 12.02.1991 i.e., 23 days 22 hours and 30 minutes and thus, there being absence for a period of 72 days (approximately) has also not been disputed. Thus, in the said circumstances and in view of the law laid down in the abovesaid judgments, it cannot be said that the order of discharge is either in violation of Rule 12.21 of the Punjab Police Rules, 1934 or is stigmatic or punitive. Reliance placed on behalf of the respondent, upon the averments made in the written statement to the effect that

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the plaintiff-respondent was stated to be a habitual absentee during his short period of tenure also cannot be made the basis to hold that the order of discharge was punitive or stigmatic. Reference in this regard may be made to the observations made in paragraph 20 of the judgment of the Hon'ble Supreme Court in the case of ***State of Punjab and others vs. Sukhwinder Singh (supra)*** *(relevant portion of which is reproduced hereinabove), to the effect that the High Court had completely gone wrong in building up a case of the order of discharge being punitive on the basis of averments made in the written statement to the effect that the employee was a habitual absentee during the short period.*

22. Even the judgment relied upon by the learned counsel for the respondent in the case of ***State of Punjab and others vs. Balbir Singh (supra)*** *would also not further the case of the respondent. Apart from the fact that the said judgment has been duly considered in the subsequent judgment of the Hon'ble Three Judges Bench of the Hon'ble Supreme Court in the case of* ***State of Punjab and others vs. Sukhwinder Singh (supra)****, it would be relevant to note that even in the said case, it was observed that the order of termination passed could not be held to be punitive in nature, as the preliminary inquiry done in the said case was done with a view to determine the suitability of the employee within the meaning of Rule 12.21 of the Punjab Police Rules, 1934 and that the termination was not founded on misconduct but was on account of misbehaviour of the employee with a lady Constable and of having consumed liquor in office, which factors were considered for determining the suitability of the respondent for the job, in light of the standards of discipline expected from a police personnel. For the said reasons, the impugned judgment of the High Court was set aside and the appeal filed by the State of Punjab and others was allowed. The impugned order of discharge in the said case was also similar to the impugned order passed in the present case and the order of discharge was challenged primarily on the ground that the same was passed without conducting any regular disciplinary enquiry. It is in the said background, that the Hon'ble Supreme Court had observed that in case an enquiry or an assessment is aimed at determining the suitability of an employee for a particular job, then such termination would be termination simpliciter and not punitive in nature. The Hon'ble Supreme Court thus, in a case where an employee is stated to have misbehaved with a lady constable and also consumed liquor in the office and subsequently discharged had held the said order of discharge to be not punitive. The facts of the present case are on a higher*

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> *footing to uphold the order of discharge than the facts of the employee in the abovesaid judgment before the Hon'ble Supreme Court."*

11. So far as the reliance placed by the learned counsel for the respondent/plaintiff in ***Rajinder Kaur's case (supra)*** and ***Joginder Singh's case (supra)*** is concerned, the said judgments have been considered by a Full Bench of this Court in ***Sher Singh's case (supra)***. The judgment in ***Joginder Singh's case (supra)*** was also made the basis by the learned Trial Court in the present case while setting aside the order of discharge of the respondent/plaintiff. Similarly other judgments relied upon by learned counsel for the respondent/plaintiff are not applicable to the facts and circumstances of the present case, therefore, no benefit of the same can be given to him.

12. Admittedly, the respondent/plaintiff (Satnam Singh) was recruited as Constable in the Punjab Police on 22.11.1989 and he was discharged from service while on probation, vide order dated 20.06.1990, since he was found quite unsuitable to be retained in Police Force and was not likely to become a good officer, which was challenged by him before the trial Court by preferring a suit for declaration, which was decreed vide impugned judgement and decree dated 30.09.1992, which was challenged by the State in appeal, however, the same was dismissed by the First Appellant Court, vide judgement and decree dated 08.06.1993, affirming the findings of the trial court and the abovesaid judgements and decrees have been assailed by the State by preferring the instant Regular Second Appeal before this Court, which was admitted on 08.12.1993 and vide order dated

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18.02.1994 passed by this Court, the execution of impugned judgements and decrees were stayed, which was made absolute vide order dated 28.04.1994.

In view of the above admitted facts and circumstances, it comes out that the respondent/plaintiff (Satnam Singh), who joined as Constable in the Punjab Police on 22.11.1989 was discharged from service on 20.06.1990 while on probation, since he was found unsuitable to be retained in Punjab Police, which is a disciplined force, which shows that in totality he has served the appellant-State merely for a period of 08 months, which is also a recorded fact at Issue No.1 of the judgment of trial court and, therefore, in this view of the matter this Court, even on the merits of the case, is not inclined to accept the claim of an employee for reinstatement of his services after a long gap of 37 years and who remained on probation just for 08 months and was ousted from the disciplined force being found not fit to be retained in service. Further, the impugned judgments and decrees of the trial Court as well as the First Appellate Court are silent and cryptic on the merits of the case i.e. there is no finding qua availing as well as sanctioning of the leave by the delinquent official and the entire findings are regarding requirement of conducting a regular departmental inquiry only, which is not mandated in the case of an employee, who has been ousted from service that too during a probation period falling in the ambit of discharge simpliciter under Rule 12.21 of the PPR.

13. Consequently, the question of law framed above, is answered in favour of the appellants-State and against the respondent-

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plaintiff. It is held that the order dated 20.06.1990, passed by the Senior Superintendent of Police, Batala under Rule 12.21 of the PPR discharging the respondent-plaintiff from service, is an order of discharge simpliciter.

14. Accordingly, the instant Regular Second Appeal is allowed and judgments and decrees passed by the learned Trial Court and the First Appellate Court are hereby set aside and the suit filed by the respondent-plaintiff is dismissed. Decree sheet be prepared accordingly.

14. Pending application(s), if any, shall also stand disposed of.

17.02.2026 **(NAMIT KUMAR)**
R.S. **JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No