2026:CGHC:15338

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Order Reserved on : 18.02.2026

Order Delivered on : 02.04.2026

WPS No. 1488 of 2023

Kaushik Behra S/o Shri Hajaru Behra Aged About 43 Years (Terminated Constable -1210), R/o Village- Amapali, Police Station - Basna, District Mahasamund Chhattisgarh.

... Petitioner

versus

1 - The State of Chhattisgarh Through - The Secretary, Department of Home Affairs, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur Chhattisgarh.

2 - The Director General of Police, Head Office of The Chhattisgarh Police, Atal Nagar, Nawa Raipur Chhattisgarh.

3 - The Assistant Director General of Police (Administration) Head Office of The Chhattisgarh Police, Atal Nagar, Nawa Raipur Chhattisgarh.

4 - The Inspector General of Police, Bastar Range, Lalbag, Jagadalpur Chhattisgarh.

5 - The Superintendent of Police, District - Bastar -Jagdalpur Chhattisgarh.

--- **Respondents**

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Roop Ram Naik, Advocate
For State/Respondents	:	Mr. Arpit Agrawal, Panel Lawyer

Hon'ble Shri Amitendra Kishore Prasad, Judge

CAV Order

1. Heard Mr. Roop Ram Naik, learned counsel for the petitioner as well as Mr. Arpit Agrawal, learned Panel Lawyer appearing for the State/respondents.

2. The petitioner, by filing the present writ petition, has assailed the impugned order dated 29.09.2021 (Annexure P-1) passed by respondent No. 2, whereby the mercy petition/departmental appeal preferred by the petitioner has been dismissed and the order dated 30.09.2020 (Annexure P-2) passed by respondent No. 4 as well as the final order dated 04.10.2019 (Annexure P-3) passed by respondent No. 5 have been affirmed, seeking quashment of the said orders and a consequential direction for reinstatement on the post of Constable with seniority, full back wages, salary and all consequential benefits, including counting of the period from 13.06.2018 to 12.01.2019 for all service purposes.

3. The petitioner has sought for following reliefs:-

> "*10.1 That, this Hon'ble Court may kindly be pleased to issue a appropriate writ/order by setting aside/quashing the impugned order dated 29.09.2021 (Annexure P-1) passed by the respondent No. 2 whereby the mercy petition /departmental appeal of the petitioner has been dismissed and confirmed the order dated 30.09.2020 passed by the respondent No. 4 (Annexure P-2) and final order dated*

04.10.2019 passed by the respondent no. 5 (Annex. P-3).

10.2 That, this Hon'ble Court may kindly be pleased to issue a writ/order by directing the respondent authorities to reinstatement the petitioner in his service (post of Constable) with seniority, salary, full back wages and all consequential benefits with effect from date of removal from service i.e. 04.10.2019 and also count/treat the working period from 13.06.2018 to 12.01.2019.

10.3 That, this Hon'ble Court may kindly be pleased to grant other relief which may be suitable in the facts and circumstances of the case, may also be granted in the favour of the petitioner."

4. Brief facts of the case, in a nutshell, are that the petitioner was appointed as a Constable and, after completing his basic PTS and CIT training in the 5th Battalion, Jagdalpur, was posted at Police Camp Jiramgaon, P.S. Darbha, District Bastar, a naxalite-affected area. He discharged his duties sincerely and honestly. However, he remained absent from duty from 13.06.2018 to 12.01.2019 due to the death of his uncle (who had adopted him), performance of last rites, his own ill health, his wife’s pregnancy and other family difficulties, and he could not intimate the superior authorities during that period.

5. A charge-sheet dated 07.02.2019 was issued alleging unauthorized absence for about 213 days in violation of Rule 64(2)

(4) of the Chhattisgarh Police Regulations and Rule 7 of the Civil Services Conduct Rules, along with an allegation that he was a habitual absentee and unfit for service. A departmental enquiry was instituted and an enquiry officer was appointed. According to the petitioner, no proper show cause notice was served, nor was he afforded an effective opportunity to defend himself or cross-examine the prosecution witnesses.

6. The enquiry officer submitted his report dated 21.05.2019 holding the charges proved. Thereafter, by order dated 04.10.2019, respondent No. 5 imposed the major penalty of removal from service. The petitioner preferred a departmental appeal before respondent No. 4, which came to be rejected on 30.09.2020, affirming the order of removal.

7. Subsequently, the petitioner preferred a further appeal/mercy petition before respondent No. 2 on the grounds of violation of principles of natural justice and disproportionate punishment. The same was rejected by order dated 29.09.2021, which was communicated to the petitioner on 07.01.2023. Aggrieved by the concurrent orders imposing the major penalty of removal from service, the petitioner has filed the present writ petition.

8. Mr. Roop Ram Naik, learned counsel for the petitioner submits that the impugned order dated 29.09.2021 passed by the respondent No. 2 – Director General of Police is illegal, arbitrary and suffers from complete non-application of mind, as the departmental

appeal/mercy petition has been rejected mechanically without proper consideration of the record and the specific grounds raised by the petitioner. It is contended that the order merely affirms the punishment imposed by respondent No. 5 without independently examining whether the departmental enquiry was conducted in accordance with law and principles of natural justice. It is further submitted that the petitioner was appointed as a Constable on 12.02.2007 and had successfully completed his training before being posted in a naxalite-affected area at Camp Jiramgaon, P.S. Darbha, District Bastar, where he discharged his duties sincerely. His absence from 13.06.2018 to 12.01.2019 was neither willful nor deliberate, but was on account of the death of his uncle, who had adopted him, performance of last rites, his own ill health and serious family circumstances including his wife's pregnancy. Despite such compelling circumstances, the disciplinary authority failed to consider the defence version in its proper perspective.

9. Mr. Naik further submits that the departmental enquiry was conducted in violation of principles of natural justice. No proper show cause notice was served prior to initiating the proceedings, and the petitioner was not afforded an effective opportunity to cross-examine witnesses or to submit a proper written representation against the enquiry report. The findings recorded by the enquiry officer and accepted by the disciplinary authority are stated to be perverse and unsupported by evidence, particularly inasmuch as there is no finding that the absence was

willful or intentional. It is also contended that the punishment of removal from service is grossly disproportionate to the alleged misconduct. Under Regulation 226 of the Chhattisgarh Police Regulations, withholding of increment is prescribed as a suitable punishment for serious dereliction of duty; however, the respondents have imposed the extreme penalty of removal, overlooking the statutory scheme. The appellate and revisional authorities have also erred in taking into consideration the past service record without following the procedure contemplated under Regulation 228.

10. In support of his submissions, Mr. Naik places reliance upon the judgment in ***Kudiam Bhima vs. State of C.G. & others, WPS No. 227/2020,*** wherein this Court interfered with the order of removal on the ground of non-consideration of relevant material. Reliance is also placed on ***Krushnakant B. Parmar vs. Union of India & Another, (2012) 3 SCC 178,*** wherein the Hon'ble Supreme Court held that in cases of unauthorized absence, there must be a finding that such absence was willful. Further reliance is placed on ***Chhel Singh vs. MGB Gramin Bank, Pali & Others, (2014) 13 SCC 166, Ramsagar Sinha vs. State of C.G. & Others, WA No. 172/2025*** and ***Drigpal Singh vs. State of M.P. & Others, 2014 SCC Online MP 1860,*** to contend that disproportionate punishment and violation of natural justice vitiate the disciplinary proceedings.

11. On these grounds, it is prayed by Mr. Naik that the impugned orders be set aside and the petitioner be reinstated with all consequential benefits.

12. On the other hand, Mr. Arpit Agrawal, learned Panel Lawyer appearing for the State/respondents, vehemently opposes the submissions advanced by learned counsel for the petitioner and submits that the present writ petition is devoid of merit and is liable to be dismissed. It is contended that the impugned order dated 29.09.2021 (Annexure P-1) passed by respondent No. 2 – Director General of Police – has been passed after due consideration of the mercy petition, the entire departmental enquiry record, and the service history of the petitioner, and therefore does not suffer from any illegality, perversity or non-application of mind.

13. Mr. Agrawal further submits that the petitioner remained unauthorizedly absent for 213 days continuously from 13.06.2018 to 12.01.2019 while posted at Camp Jiramgaon, P.S. Darbha, District Bastar, without any prior sanction of leave or intimation to the competent authority. Despite issuance of notices dated 26.06.2018, 27.07.2018, 28.08.2018 and 23.10.2018 directing him to resume duty, the petitioner failed to report back or furnish any satisfactory explanation. It is argued that such prolonged and continuous absence in a disciplined force like the police, particularly in a naxalite-affected area, amounts to gross indiscipline and serious misconduct. It is further submitted that the

departmental enquiry was conducted strictly in accordance with law and the applicable rules. The petitioner was served with a charge-sheet, an enquiry officer was duly appointed, and the entire proceedings were conducted in his presence. Adequate opportunity of hearing and defence was afforded to him. The enquiry was not conducted ex parte, and the petitioner was allowed to participate and produce defence evidence. The charges were found proved on the basis of evidence on record, and thereafter the disciplinary authority imposed the penalty of removal from service by order dated 04.10.2019, which was affirmed in appeal and in the mercy petition.

14. It is submitted by Mr. Agrawal that the petitioner is a habitual absentee and had earlier been inflicted with five minor penalties and two major penalties for unauthorized absence. Despite repeated opportunities to improve his conduct, there was no improvement. In such circumstances, retention of the petitioner in a disciplined force would be detrimental to institutional discipline. It is argued that the punishment imposed is proportionate to the gravity of misconduct and cannot be said to be shockingly disproportionate so as to warrant interference under Article 226 of the Constitution of India. It is lastly submitted that under Rule 24 of the Chhattisgarh Civil Services (Leave) Rules, 1977, willful absence renders a Government servant liable to disciplinary action, and the petitioner admittedly remained absent without sanctioned leave. The constitutional safeguards under Article

311(2) of the Constitution of India were duly complied with, as the petitioner was informed of the charges and given reasonable opportunity of hearing. Therefore, no interference is called for in exercise of writ jurisdiction and the petition deserves to be dismissed being sans merit.

15. Mr. Agrawal, learned State counsel has placed reliance upon the judgments passed by the Hon'ble Supreme Court in ***Shyam Lal v. State of U.P., AIR 1954 SC 369, State of Andhra Pradesh v. S. Sree Rama Rao, AIR 1963 SC 1723, Moti Ram Deka v. General Manager, North East Frontier Railway, AIR 1964 SC 600*** and ***State of Karnataka v. N. Gangaraj, (2020) 3 SCC 423*** to contend that the scope of judicial review under Article 226 of the Constitution of India in matters arising out of departmental enquiries and consequential orders of dismissal or removal is extremely limited. As such, prays for dismissal of the writ petition.

16. I have heard learned counsel for the petitioner as well as learned counsel appearing for the respective respondents and have perused the pleadings and documents placed on record.

17. From perusal of the order dated 04.10.2019 passed by the Superintendent of Police, Bastar, Jagdalpur, it is apparent that the disciplinary authority has recorded a detailed finding regarding the habitual unauthorized absence of the delinquent employee, namely Kaushik Behera. The order reflects that the delinquent remained absent from Camp Jiramgaon, Police Station Darbha,

with effect from 13.06.2018 without any prior information or permission and continued to remain absent for 213 consecutive days, reporting back only on 12.01.2019. Despite repeated notices and reminders, he neither resumed duty within time nor submitted any satisfactory explanation in defense of his absence.

18. The order further discloses that the delinquent had a past service record marked by repeated instances of unauthorized absence and punishments, including censures, withholding of increments with cumulative effect, and adjustment of absence periods under relevant leave rules. The disciplinary authority has specifically taken into consideration his previous misconduct and the fact that earlier minor and major penalties failed to bring about any improvement in his conduct. The charge-sheet was duly served, and even after receipt of multiple reminders, the delinquent failed to submit any reply, thereby indicating lack of interest in contesting the allegations.

19. It is also evident from the order that a regular departmental inquiry was conducted in accordance with the principles of natural justice. An Inquiry Officer and Presenting Officer were appointed, prosecution witnesses were examined, copies of statements were supplied, and opportunity for cross-examination as well as for leading defense evidence was granted. The Inquiry Officer, after detailed analysis of oral and documentary evidence, held Charges No. 1 and 2 to be fully proved. A copy of the inquiry report was

supplied to the delinquent along with a notice for representation; however, he again failed to submit any representation within the stipulated time despite reminders.

20. Upon independent consideration of the inquiry report, evidence on record, and the service history of the delinquent, the disciplinary authority concluded that the misconduct stood fully established and that the delinquent, being habitually absent, was unfit to be retained in a disciplined force like the police department. Consequently, the penalty of “discharge from service” was imposed with effect from 04.10.2019 (forenoon), and the period of absence from 13.06.2018 to 12.01.2019 (213 days) was treated under the principle of “no work no pay.”

21. Further, from perusal of the order dated 30.09.2020 passed by the appellate authority, i.e., the Office of the Inspector General of Police, Bastar Range, Jagdalpur, it transpires that a detailed consideration was undertaken of the departmental enquiry conducted against Kaushik Behera, District Bastar. The appellate authority noted that the petitioner remained unauthorizedly absent from Camp Jiramgaon, P.S. Darbha, for 213 consecutive days from 13.06.2018 to 12.01.2019 without any prior information or permission, thereby violating Para 64(2) & (4) of the M.P./Chhattisgarh Police Regulations and Rule 7 of the Civil Services Conduct Rules, and further that he was habitual of remaining absent from duty despite earlier punishments.

22. It further transpires that the Superintendent of Police, Bastar had conducted the enquiry in accordance with Rule 14 of the M.P./Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (for short, 'Rules of 1966'), appointed an Enquiry Officer, and after receipt of the enquiry report, supplied a copy thereof to the petitioner and granted opportunity to submit representation. However, the petitioner did not submit any representation. Considering the gravity of the proved charges and the past service record reflecting imposition of multiple minor and major penalties for similar misconduct, the disciplinary authority imposed the penalty of removal from service by order dated 04.10.2019 and treated the period of absence on the principle of "no work no pay" and the suspension period accordingly.

23. The appellate authority, after examining the entire record under Rule 27 of the Rules of 1966 and affording personal hearing to the appellant, recorded that no new grounds or mitigating circumstances were brought on record warranting interference with the punishment. It was also observed that despite repeated opportunities in the past, the petitioner failed to improve his conduct and that his prolonged unauthorized absence in a naxalite-affected and sensitive area like Bastar adversely affected discipline and morale of the police force. Accordingly, the appellate authority found the punishment proportionate to the misconduct proved and upheld the order of removal passed by the Superintendent of Police, Bastar, dismissing the appeal preferred

by the petitioner.

24. Lastly, from perusal of the impugned order dated 29.09.2021 passed by the Director General of Police, Chhattisgarh, it transpires that the competent authority has undertaken a detailed examination of the mercy petition submitted by Ex-Constable Kaushik Behera, District Bastar, along with the other relevant documents. The authority has specifically considered the grounds raised by the petitioner regarding alleged violation of principles of natural justice, personal and family difficulties, and the proportionality of punishment. The impugned order reflects that the Director General of Police has recorded a categorical finding that the departmental inquiry was conducted strictly in accordance with the prescribed procedure and in compliance with the principles of natural justice. It has been observed that the delinquent was afforded adequate opportunity to defend himself, that notices were duly served, and that he participated in the inquiry proceedings. The plea that the inquiry was one-sided or that reasonable opportunity was denied has been expressly rejected as being contrary to the record.

25. It further transpires that the authority has taken into account the past service record of the petitioner, which discloses repeated instances of unauthorized absence and imposition of both minor and major penalties. The impugned order notes that despite earlier punishments and opportunities to reform, the petitioner remained

habitually absent and continued to exhibit indiscipline. The prolonged absence of 213 days from 13.06.2018 to 12.01.2019 without prior permission or intimation has been treated as grave misconduct, particularly in the context of service in a disciplined force like the police department.

26. The Director General of Police has also considered the personal grounds urged in the mercy petition, including illness of family members and domestic disputes, but has observed that no contemporaneous intimation or sanctioned leave was obtained, nor were satisfactory supporting documents furnished during the inquiry. Consequently, the authority has concluded that the punishment of dismissal from service imposed vide order dated 04.10.2019 is neither excessive nor disproportionate and does not warrant interference in exercise of mercy jurisdiction.

27. The scope of judicial review in disciplinary matters is well settled. This Court does not sit as an appellate authority to reappreciate evidence or to substitute its own opinion on the quantum of punishment unless the same is shockingly disproportionate or suffers from patent illegality. From a perusal of the orders dated 04.10.2019 passed by the Superintendent of Police, Bastar; 30.09.2020 passed by the Appellate Authority; and 29.09.2021 passed by the Director General of Police while rejecting the mercy petition, it is evident that the authorities have acted strictly within the framework of law, after affording due opportunity to the

petitioner and after considering his past service record, gravity of misconduct and the requirements of discipline in a uniformed force.

28. Rule 24 of the Chhattisgarh Civil Services (Leave) Rules, 1977 (as amended in 2010) deals with the consequences of absence after expiry of sanctioned leave, which reads as under:-

> *"**24. Absence after expiry of leave.-** (1) Unless the authority competent to grant leave extends the leave, Government servant who remains absent after the end of leave, the period of such absence not covered by grant of leave shall have to be treated as 'dies-non' for all purpose including leave. He will not be entitled to any leave salary for the period of such absence and that period shall be debited against his leave account as though it were half pay leave to the extent such leave is due, the period in excess of such leave due being treated as extraordinary leave.*
>
> *(2) Willful absence from duty after the expiry of leave renders a Government servant liable to disciplinary action."*

29. A bare perusal of Rule 24 of the Chhattisgarh Civil Services (Leave) Rules, 1977 (as amended in 2010) goes to show that in the event a Government servant remains absent after the expiry of sanctioned leave without extension by the competent authority, such period of absence is required to be treated as *dies-non* for all purposes including leave, and the employee is not entitled to any

leave salary for that duration; the period is to be debited against the leave account as half pay leave to the extent due and, for the excess period, treated as extraordinary leave. More significantly, sub-rule (2) categorically provides that willful absence from duty after the expiry of leave renders the Government servant liable to disciplinary action, thereby making it clear that unauthorized and willful absence constitutes misconduct inviting initiation of departmental proceedings in accordance with the applicable service rules.

30. The legal position regarding dismissal and removal from service has been settled since the Constitution Bench judgment of the Hon'ble Supreme Court in ***Shyam Lal*** (supra), wherein the Court authoritatively held that dismissal or removal from service as a measure of punishment entails penal consequences and casts a stigma, but once imposed in accordance with law and after due inquiry, it cannot be interfered with merely on sympathetic considerations. The Court clarified that termination by way of punishment, after compliance with procedural safeguards, is legally sustainable and does not warrant interference unless vitiated by mala fides or procedural illegality.

31. Similarly, in the Constitution Bench decision in ***Moti Ram Deka*** (supra), the Hon'ble Supreme Court explained that where termination is founded on misconduct and preceded by an inquiry consistent with Article 311(2) of the Constitution, such action is

punitive but valid, provided reasonable opportunity has been afforded. The Court emphasized that the essence lies not in the form of the order but in its substance; and where misconduct is duly established in a regular departmental inquiry, the penalty cannot be invalidated on hyper-technical grounds.

32. In ***N. Gangaraj*** (supra), the Hon'ble Supreme Court, while exercising jurisdiction under Article 226, is not required to reappreciate the evidence or substitute its own conclusions in place of those arrived at by the competent authority. Interference is warranted only when the decision-making process is vitiated by patent illegality, perversity, violation of statutory provisions, or breach of principles of natural justice.

33. Further in ***S. Sree Rama Rao*** (supra), the Hon'ble Apex Court authoritatively held that in proceedings under Article 226, the High Court is concerned not with the correctness of the decision but with the decision-making process. It was categorically observed that the High Court cannot review the evidence and arrive at an independent finding on the facts. The adequacy or sufficiency of evidence is not a matter for judicial review. The departmental authorities are the sole judges of facts, and so long as there is some evidence which reasonably supports the conclusion, the findings cannot be interfered with. It was also clarified that the standard of proof applicable in criminal trials proof beyond reasonable doubt, is not attracted in departmental proceedings,

where preponderance of probabilities is the governing standard.

34. The principle governing the scope of interference has been further reiterated in ***Union of India and others v. P. Gunasekaran, (2015) 2 SCC 610,*** wherein the Hon'ble Supreme Court laid down that in proceedings under Article 226/227 of the Constitution, the High Court shall not reappreciate evidence, examine adequacy or reliability of evidence, or substitute its own view for that of the disciplinary authority, unless the findings are perverse or the enquiry is vitiated on account of violation of statutory rules or principles of natural justice. The Hon'ble Supreme Court has held as under :-

> *"12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:*
>
> *(a) the enquiry is held by a competent authority;*

(b) the enquiry is held according to the procedure prescribed in that behalf;

(c) there is violation of the principles of natural justice in conducting the proceedings;

(d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;

(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;

(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;

(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

(i) the finding of fact is based on no evidence.

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

(i) reappreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based.

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience.

14. In one of the earliest decisions in State of A.P. v. S. Sree Rama Rao [AIR 1963 SC 1723] , many of the above principles have been discussed and it has been concluded thus : (AIR pp. 1726-27, para 7)

"7. … The High Court is not constituted in a proceeding under Article 226 of the Constitution as a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant : it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under

Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution."

15. In State of A.P. v. Chitra Venkata Rao [(1975) 2 SCC 557, the principles have been further discussed at paras 21-24, which read as follows : (SCC pp. 561-63)

"21. The scope of Article 226 in dealing with

departmental inquiries has come up before this Court. Two propositions were laid down by this Court in State of A.P. v. S. Sree Rama Rao [AIR 1963 SC 1723] . First, there is no warrant for the view that in considering whether a public officer is guilty of misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court must be applied. If that rule be not applied by a domestic tribunal of inquiry the High Court in a petition under Article 226 of the Constitution is not competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not a court of appeal under Article 226 over the decision of the authorities holding a departmental enquiry against a public servant. The Court is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Second, where there is some evidence which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court to review the evidence and to arrive at an independent finding on the evidence. The High Court may interfere

where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. The departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there is some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226.

22. Again, this Court in Railway Board v. Niranjan Singh [(1969) 1 SCC 502 : (1969) 3 SCR 548] said that the High Court does not interfere with the conclusion of the disciplinary authority unless the finding is not supported by any evidence or it can be said that no reasonable person could have reached such a finding. In Niranjan Singh case [(1969) 1 SCC 502 : (1969) 3 SCR 548] this Court held that the High Court exceeded its powers in interfering with the findings of

the disciplinary authority on the charge that the respondent was instrumental in compelling the shutdown of an air compressor at about 8.15 a.m. on 31-5-1956. This Court said that the Enquiry Committee felt that the evidence of two persons that the respondent led a group of strikers and compelled them to close down their compressor could not be accepted at its face value. The General Manager did not agree with the Enquiry Committee on that point. The General Manager accepted the evidence. This Court said that it was open to the General Manager to do so and he was not bound by the conclusion reached by the committee. This Court held that the conclusion reached by the disciplinary authority should prevail and the High Court should not have interfered with the conclusion.

23. The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The Court exercises it not as an appellate court. The findings of fact reached by an inferior court or tribunal as a result of the appreciation of evidence are not reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by a tribunal, a writ can be issued if it is shown that in recording the said finding, the tribunal

had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Again if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. A finding of fact recorded by the Tribunal cannot be challenged on the ground that the relevant and material evidence adduced before the Tribunal is insufficient or inadequate to sustain a finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal. (See Syed Yakoob v. K.S. Radhakrishnan [AIR 1964 SC 477] .)

24. The High Court in the present case assessed the entire evidence and came to its own conclusion. The High Court was not justified to do so. Apart from the aspect that the High Court does not correct a finding of fact on the ground that the evidence is not sufficient or adequate, the evidence in the present case which was considered by the Tribunal cannot be scanned by the High Court to justify the conclusion that there is no evidence which would justify the finding of the Tribunal that the respondent did not make the journey. The Tribunal gave reasons for its conclusions. It is not possible for the High Court to say that no reasonable person could

have arrived at these conclusions. The High Court reviewed the evidence, reassessed the evidence and then rejected the evidence as no evidence. That is precisely what the High Court in exercising jurisdiction to issue a writ of certiorari should not do."

16. These principles have been succinctly summed up by the living legend and centenarian V.R. Krishna Iyer, J. in State of Haryana v. Rattan Singh [(1977) 2 SCC 491 . To quote the unparalleled and inimitable expressions : (SCC p. 493, para 4)

"4. … in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and administrative tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act. For this proposition it is not necessary to cite decisions nor textbooks, although we have been taken through case law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fair play is the

basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good."

17. In all the subsequent decisions of this Court up to the latest in Chennai Metropolitan Water Supply and Sewerage Board v. T.T. Murali Babu [Chennai Metropolitan Water Supply and Sewerage Board v. T.T. Murali Babu, (2014) 4 SCC 108, these principles have been consistently followed adding practically nothing more or altering anything.

***

***

20. Equally, it was not open to the High Court, in exercise of its jurisdiction under Articles 226/227 of the Constitution of India, to go into the proportionality of punishment so long as the punishment does not shock the conscience of the court. In the instant case, the disciplinary authority has come to the conclusion that the respondent lacked integrity. No doubt, there are no measurable standards as to what is integrity in service jurisprudence but certainly there are indicators for such assessment. Integrity according to Oxford Dictionary is "moral uprightness; honesty". It takes in its sweep, probity, innocence, trustfulness, openness, sincerity, blamelessness, immaculacy, rectitude, uprightness, virtuousness,

righteousness, goodness, cleanness, decency, honour, reputation, nobility, irreproachability, purity, respectability, genuineness, moral excellence, etc. In short, it depicts sterling character with firm adherence to a code of moral values."

35. Similarly, in ***Karnataka Power Transmission Corporation Limited represented by Managing Director (Administration and HR) v. C. Nagaraju and another, (2019) 10 SCC 367***, the Hon'ble Supreme Court has held that misconduct involving indiscipline and repeated unauthorized absence justifies strict action and that the constitutional courts must not lightly interfere with penalties imposed after a valid enquiry and observed as follows :-

"11. Reliance was placed by the High Court on a judgment of this Court in G.M. Tank [G.M. Tank v. State of Gujarat, (2006) 5 SCC 446 : 2006 SCC (L&S) 1121] whereby the writ petition filed by Respondent 1 was allowed. In the said case, the delinquent officer was charged for an offence punishable under Section 5(1)(e) read with Section 5(2) of the PC Act, 1988. He was honourably acquitted by the criminal court as the prosecution failed to prove the charge. Thereafter, a departmental inquiry was conducted and he was dismissed from service. The order of dismissal was upheld [G.M. Tank v. State of Gujarat, 2003 SCC OnLine Guj 487] by the High Court. In the appeal filed by the delinquent officer, this Court

was of the opinion that the departmental proceedings and criminal case were based on identical and similar set of facts. The evidence before the criminal court and the departmental proceedings being exactly the same, this Court held that the acquittal of the employee by a criminal court has to be given due weight by the disciplinary authority. On the basis that the evidence in both the criminal trial and departmental inquiry is the same, the order of dismissal of the appellant therein was set aside. As stated earlier, the facts of this case are entirely different. The acquittal of Respondent 1 was due to non-availability of any evidence before the criminal court. The order of dismissal was on the basis of a report of the inquiry officer before whom there was ample evidence against Respondent 1.

12. In Krishnakali Tea Estate v. Akhil Bharatiya Chah Mazdoor Sangh [Krishnakali Tea Estate v. Akhil Bharatiya Chah Mazdoor Sangh, (2004) 8 SCC 200, this Court was concerned with the validity of the termination of the services of workmen after acquittal by the criminal court. Dealing with a situation similar to the one in this case, where the acquittal was due to lack of evidence before the criminal court and sufficient evidence was available before the Labour Court, this Court was of the opinion that the judgment in M. Paul Anthony case [M. Paul Anthony v. Bharat Gold Mines Ltd., (1999) 3 SCC 679 cannot come to the rescue of the workmen.

> *13. Having considered the submissions made on behalf of the appellant and Respondent 1, we are of the view that interference with the order of dismissal by the High Court was unwarranted. It is settled law that the acquittal by a criminal court does not preclude a departmental inquiry against the delinquent officer. The disciplinary authority is not bound by the judgment of the criminal court if the evidence that is produced in the departmental inquiry is different from that produced during the criminal trial. The object of a departmental inquiry is to find out whether the delinquent is guilty of misconduct under the conduct rules for the purpose of determining whether he should be continued in service. The standard of proof in a departmental inquiry is not strictly based on the rules of evidence. The order of dismissal which is based on the evidence before the inquiry officer in the disciplinary proceedings, which is different from the evidence available to the criminal court, is justified and needed no interference by the High Court.*"

36. Applying the aforesaid settled position of law to the facts of the present case, this Court finds that the petitioner, being a member of a disciplined police force deployed in a sensitive and naxalite-affected area, remained unauthorizedly absent for 213 consecutive days from 13.06.2018 to 12.01.2019 without prior sanction of leave or proper intimation to the competent authority. The record reflects that repeated notices were issued directing

him to resume duty, yet he failed to comply within reasonable time or furnish any contemporaneous explanation supported by credible material. In a uniformed force entrusted with maintenance of law and order, prolonged absence without leave cannot be viewed as a mere technical lapse; rather, it undermines discipline, operational preparedness and institutional integrity. The departmental enquiry was conducted strictly in accordance with the prescribed procedure under the relevant service rules. A charge-sheet containing definite and specific articles of charge was served; an Inquiry Officer and Presenting Officer were duly appointed; opportunity to participate in the proceedings, cross-examine witnesses and adduce defence evidence was afforded; and a copy of the enquiry report was supplied before imposition of penalty. The petitioner failed to avail several of these opportunities despite reminders. The disciplinary authority, upon independent consideration of the enquiry report, evidence adduced and the petitioner's past service record, which discloses repeated instances of unauthorized absence resulting in both minor and major penalties arrived at a reasoned conclusion that the misconduct stood proved and that the petitioner had exhibited habitual indiscipline rendering him unfit for retention in service.

37. The record placed before this Court clearly demonstrates that the departmental enquiry was conducted by a competent authority strictly in accordance with the procedure prescribed under the relevant statutory framework, including Rule 14 of the Rules of

1966 and Rule 24 of the Rules, 1977 governing imposition of major penalties. The petitioner was served with a definite and distinct charge-sheet; an Inquiry Officer was duly appointed; oral and documentary evidence was recorded; opportunity of cross-examination and defence was afforded; and a copy of the enquiry report was supplied before imposition of penalty. Thus, the mandatory procedural safeguards contemplated under Article 311(2) of the Constitution of India stood fully complied with.

38. The contention of violation of principles of natural justice is not borne out from the record. On the contrary, it transpires that despite repeated notices and opportunities, the petitioner failed to submit timely explanation or representation and did not avail the opportunities extended to him in full measure. The enquiry was not conducted ex parte; rather, it was conducted after affording adequate opportunity. In such circumstances, the plea of denial of reasonable opportunity is clearly untenable.

39. The charge against the petitioner pertains to prolonged unauthorized absence for 213 consecutive days while posted in a sensitive naxalite-affected area. In a disciplined force like the police, such conduct strikes at the very root of institutional discipline and operational efficiency. The disciplinary authority has also taken into consideration the past service record of the petitioner, which reflects repeated instances of unauthorized absence and imposition of both minor and major penalties. The

finding that the petitioner is a habitual absentee is based on documentary material forming part of the service record. There is, therefore, “some evidence” supporting the conclusions reached by the authorities.

40. In view of the law laid down by the Hon’ble Supreme Court in ***S. Sree Rama Rao*** (supra), this Court cannot reappreciate the evidence or substitute its own view for that of the disciplinary authority so long as the enquiry is conducted in accordance with law and the findings are supported by evidence. Similarly, in **P. Gunasekaran** (supra), it has been categorically held that the High Court, while exercising jurisdiction under Articles 226/227, shall not act as a court of appeal in disciplinary matters and shall not interfere with findings of fact unless they are perverse or based on no evidence. The present case does not fall within any of the exceptional contingencies enumerated therein.

41. The nature and effect of the penalty of removal from service have been authoritatively explained by the Constitution Bench of the Hon’ble Supreme Court in **Shyam Lal** (supra), wherein it was held that removal is a punishment founded upon misconduct or deficiency personal to the officer. Further, in **Moti Ram Deka** (supra), it has been clarified that where termination is punitive and preceded by a lawful enquiry consistent with Article 311(2), the same cannot be invalidated merely on sympathetic considerations. In the case at hand, the penalty of removal has been imposed only

after a regular departmental enquiry and upon due consideration of the gravity of misconduct and the petitioner's antecedent service record.

42. The argument of disproportionate punishment also does not merit acceptance. In **N. Gangaraj** (supra), the Hon'ble Supreme Court reiterated that the High Court cannot interfere with the quantum of punishment unless it shocks the conscience of the Court. Considering the prolonged unauthorized absence of 213 days in a disciplined force, coupled with the petitioner's past history of similar misconduct, the punishment of removal from service cannot be said to be shockingly disproportionate. On the contrary, the disciplinary authority has recorded cogent reasons as to why retention of the petitioner in service would be detrimental to discipline.

43. This Court is also mindful of the observations of the Hon'ble Supreme Court in **C. Nagaraju** (supra), wherein it has been held that misconduct involving indiscipline and repeated unauthorized absence justifies strict action and that constitutional courts must exercise restraint in interfering with penalties imposed after a valid enquiry. The factual matrix of the present case squarely attracts the said principle.

44. The supervisory jurisdiction under Article 226 is confined to examining the decision-making process and not the decision itself. No material has been placed before this Court to demonstrate that

the enquiry suffered from procedural illegality, that the authorities were influenced by extraneous considerations, or that the findings are so arbitrary that no reasonable person could have arrived at such conclusions. The petitioner essentially seeks reappreciation of evidence and substitution of punishment, which is impermissible within the limited scope of judicial review.

45. In view of the foregoing analysis, this Court finds that the orders dated 04.10.2019 passed by the Superintendent of Police, Bastar; 30.09.2020 passed by the Appellate Authority; and 29.09.2021 passed by the Director General of Police rejecting the mercy petition are well-reasoned, lawful and passed after due compliance with statutory and constitutional safeguards. No case of perversity, arbitrariness, violation of natural justice or disproportionate punishment is made out.

46. Consequently, the writ petition, being devoid of merit, deserves to be and is hereby **dismissed**. No order as to costs.

Sd/-
(Amitendra Kishore Prasad)
Judge

Yogesh

The date when the judgment is reserved	The date when the judgment is pronounced	The date when the judgment is uploaded on the website	
		Operative	Full
18.02.2026	02.04.2026	------	02.04.2026

Head-Note

Misconduct involving indiscipline and repeated unauthorized absence constitutes a serious breach of service discipline and justifies the imposition of strict penalties by the disciplinary authority. The courts ought not to lightly interfere with the quantum of punishment unless it is shown to be shockingly disproportionate or vitiated by procedural irregularity, mala fides, or violation of principles of natural justice.