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HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

Judgment reserved on : 16.11.2026

Judgment delivered on: 23.11.2026

Judgment (Full) uploaded on 23.11.2026

D.B. Special Appeal Writ No. 1133/2011
CNR: RJHC010204072009 | URN: SAW / 2919U / 2011

Shaitana Ram S/o Shri Madna Ram Ji Maghwal, Aged about 38 years, R/o Village & Post, Didiya Kala Via Rol, Tehsil Jayal, District Nagaur.

----Appellant

Versus

1. State of Rajasthan through: the Secretary, Home Department, Rajasthan, Jaipur.
2. The Hon'ble Governor, State of Rajasthan, Jaipur.
3. The D.I.G. of Police, Ajmer Range, Ajmer.
4. The Superintendent of Police, District Nagaur, Nagaur.

----Respondents

For Appellant(s)	:	Mr. Achraj Singh Saluja
For Respondent(s)	:	Mr. Deepak Chandak, AAAG for Mr. B.L. Bhati, AAG

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
HON'BLE MR. JUSTICE SANDEEP SHAH

Judgment

BY THE COURT: (PER HON'BLE MR. JUSTICE VINIT KUMAR MATHUR)

1. Heard learned counsel for the parties.

2. The present Special Appeal (Writ) has been preferred by the petitioner-appellant against the order dated 20.11.2008 passed by the learned Single Judge whereby writ petition preferred by the petitioner-appellant challenging the order of dismissal from service dated 07.01.1998, as well as the consequential orders passed by

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the respondent-department and reviewing authorities, has been dismissed.

3. The brief facts of the present case, as emerging from the record and relevant for adjudication of the present appeal, are that the petitioner-appellant was appointed to the post of Constable in the respondent-Police Department on 9th November, 1990. While he was posted in the office of the Superintendent of Police, Nagaur, the petitioner-appellant, on 19th February, 1996, left his place of posting and proceeded to his native place without submitting any leave application or obtaining prior permission from the competent authority.

4. It is further stated that on 1st March, 1996, while the petitioner-appellant was at his native place, his brother, namely, Basti Ram, was allegedly murdered. In connection with the said incident, FIR No.8/1996 was registered for the offence punishable under Section 302 of the Indian Penal Code (for short, "IPC") against the petitioner-appellant and consequently, he was was arrested as an accused in the said case on 15th April, 1996. Upon completion of the investigation, the police filed a charge-sheet against him for offences punishable under Sections 302 and 201 IPC before the competent criminal court. Consequently, the petitioner-appellant remained in police custody and, thereafter, in judicial custody in connection with the aforesaid criminal case. During the period of his judicial custody, he was placed under suspension by the respondent-Department. Subsequently, the petitioner-appellant came to be acquitted by the competent trial court by extending to him the benefit of doubt.

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5. In the meantime, the respondent-Department initiated disciplinary proceedings against the petitioner-appellant under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (for short, "the CCA Rules, 1958"). A memorandum of charges containing five charges was served upon the petitioner-appellant. The substance of the charges levelled against him is summarized as under:-

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Charge No.	**Particulars of the charge**
1.	Willful and unauthorized absence from duty with effect from 19th February, 1996, to 3rd February, 1997, without submitting any leave application or obtaining prior permission from the competent authority.
2.	Alleged involvement of the petitioner-appellant in the murder of his brother, Basti Ram, on 1st March, 1996, in connection with which FIR No.8/1996 was registered for the offence under Section 302 IPC.
3.	Arrest of the petitioner-appellant on 15th April, 1996, in connection with the aforesaid criminal case and his subsequent detention in police and judicial custody.
4.	Filing of a charge-sheet against the petitioner-appellant for the offences punishable under Sections 302 and 201 IPC after investigation in the aforesaid criminal case.
5.	The petitioner-appellant’s alleged involvement in the aforesaid criminal case and the consequential registration of the criminal case and filing of the charge-sheet against him, thereby allegedly tarnishing the image and reputation of the Police Department.

6. After conducting the departmental enquiry and recording the statements of various witnesses, the Enquiry Officer concluded that the charge relating to the petitioner-appellant's unauthorized absence from duty with effect from 19th February, 1996, to 3rd February, 1997, stood proved. The facts relating to the registration

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of the criminal case and filing of the charge-sheet against the petitioner-appellant were also treated as undisputed. However, Charge No. 5 was held to be partly proved and hence, the Disciplinary Authority, vide order dated 7th January, 1998, imposed penalty of dismissal from service upon the petitioner-appellant.

7. Aggrieved by the said order, the petitioner-appellant preferred an appeal before the Deputy Inspector General of Police, Range Ajmer, which came to be dismissed vide order dated 30th November, 1998. Thereafter, the petitioner-appellant preferred a review petition before His Excellency the Governor of the State of Rajasthan, which also came to be dismissed vide order dated 1st December, 2001.

8. Being aggrieved by the aforesaid orders, the petitioner-appellant preferred an S.B. Civil Writ Petition before this Court, which came to be dismissed by the learned Single Judge vide order dated 20th November, 2008. Hence, the present Special Appeal (Writ) has been preferred assailing the judgment passed by the learned Single Judge.

9. Learned counsel for the petitioner-appellant submitted that the learned Single Judge has erred in law as well as on facts in dismissing the writ petition and upholding the orders passed by the departmental authorities.

10. Learned counsel submitted that the learned Single Judge has erred in holding the punishment of dismissal from service to be justified, without taking into consideration that the petitioner-appellant's absence from duty was attributable to circumstances

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beyond his control. Learned counsel submitted that, on account of the arrest of the petitioner-appellant in a false criminal case, he was compelled to remain in police and judicial custody for a period of approximately nine months and, therefore, his absence from duty during the said period could not have been treated as willful or deliberate.

11. Learned counsel further submitted that the learned Single Judge has failed to appreciate that the departmental authorities, while imposing the penalty of dismissal from service, had also taken into consideration the petitioner-appellant's alleged past conduct, which did not form part of the memorandum of charges. He submitted that such past conduct was relied upon without being specifically brought to the notice of the petitioner-appellant or affording him an opportunity to explain the same. Consequently, the orders passed by the departmental authorities, as well as the judgment of the learned Single Judge upholding the same, deserve to be set aside.

12. Learned counsel for the petitioner-appellant submitted that assuming for the sake of arguments without admitting that the petitioner-appellant was willfully absent, but the fact of the matter remains that the quantum of punishment for remaining absent from duty was disproportionate as he had already completed more than five years of service in the respondent-Department. It was submitted that, having regard to the petitioner-appellant's length of service, the punishment of dismissal from service imposed by the Disciplinary Authority and subsequently affirmed by the Appellate Authority as well as the Reviewing Authority is highly

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disproportionate to the alleged misconduct. He therefore, alternatively prayed that the punishment imposed upon the petitioner-appellant deserves reconsideration on the ground of proportionality.

13. Learned counsel for the petitioner-appellant, in support of his submissions, placed reliance upon the following judgments:-

1. Krushnakant B. Parmar Vs. Union of India & Anr., reported in AIR 2012 SCW 1633;

2. The State of Mysore Vs. K. Manche Gowda, reported in AIR 1964 SC 506;

3. Group Commandant, CISF & Anr. Vs. A. Thirumalayandi, Civil Appeal No. 2065 of 2012, decided on 16.09.2026; ***&***

4. Amit Kumar Dubey Vs. M.P.P.K.V. Co. Ltd. & Anr., Civil Appeal arising from SLP (c) No.20902/2024, decided on 29.01.2025.

14. Relying upon the aforesaid judgments, learned counsel for the petitioner-appellant submitted that unauthorized absence from duty, by itself, does not constitute misconduct unless it is established that such absence was willful and not occasioned by compelling circumstances beyond the employee's control. He further submitted that the past service record of an employee, if intended to be relied upon for imposing punishment, must be duly brought into the disciplinary proceedings. Learned counsel also relied upon the aforesaid decisions to contend that, in cases of termination or removal from service, monetary compensation may be awarded as an appropriate relief, having regard to the facts

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and circumstances of the case, including the period of service rendered by the employee.

15. *Per contra*, Mr. Deepak Chandak assistant to learned Additional Advocate General, appearing on behalf of the respondents, submitted that the findings recorded by the four authorities/courts below are concurrent findings of fact and, therefore, do not warrant interference by this Court in the present appeal.

16. He further submitted that full-fledged departmental enquiry was conducted against the petitioner-appellant under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958, in accordance with the prescribed procedure. The petitioner-appellant failed to furnish any justifiable explanation for his willful absence from duty for a period of 56 days at any stage, either before the Enquiry Officer or during the course of the departmental proceedings.

17. Learned counsel also submitted that the petitioner-appellant, in his reply to the show-cause notice, did not offer any explanation whatsoever for his absence from duty. The explanation subsequently furnished by him for the first time in the appeal preferred before the Inspector General of Police was, therefore, merely an afterthought and could not be accepted.

18. Learned counsel submitted that during his relatively short period of service, commencing from 09.11.1990 and culminating in his dismissal on 07.01.1998, the conduct of the petitioner-appellant was neither satisfactory nor beyond reproach, as he was found to be a habitual absentee. He further submitted that the

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petitioner-appellant himself had admitted his earlier misconduct in the appeal preferred before the Inspector General of Police.

19. Learned counsel submitted that the petitioner-appellant had been charge-sheeted in connection with the murder of his own brother and there was no honourable acquittal by the competent criminal court, but he was acquitted by extending the benefit of doubt, particularly in view of the prosecution's failure to produce the FSL report and other relevant evidence. He submitted that the circumstances surrounding the criminal case were relevant considerations for assessing the conduct and suitability of the petitioner-appellant for continuing in service in a disciplined force like the Police Department.

20. Learned counsel submitted that the judgment passed by the learned Single Judge does not suffer from any illegality or perversity warranting interference by this Court in exercise of its appellate jurisdiction.

21. In support of his submissions, learned counsel for the respondents placed reliance upon the following judgments:-

1. Airports Authority of India, reported in 2025 INSC 149, decided on 04.02.2025.

2. State of Madhya Pradesh v. Rajkumar Yadav, reported in 2026 INSC 225, decided on 11.03.2026.

3. Union of India v. P. Gunasekaran, reported in (2015) 2 SCC 610.

22. We have given our thoughtful consideration to the rival submissions advanced by learned counsel for the parties and have

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carefully examined the material available on record including the order impugned dated 20.11.2008.

23. The facts of the present case reveal that, while working as a Constable in the respondent-Department, the petitioner-appellant remained absent from duty from 19.02.1996 to 03.02.1997, and thereafter became involved in a criminal case, in which he remained in judicial custody. Admittedly, the petitioner-appellant was acquitted in the said criminal case. A charge-sheet containing five charges was served upon the petitioner-appellant under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (hereinafter referred to as "the CCA Rules"). The Disciplinary Authority, vide its order dated 07.01.1998, dismissed the petitioner-appellant from service. The Appellate Authority as well as the Revisional Authority affirmed the order passed by the Disciplinary Authority. The petitioner-appellant challenged the order of dismissal from service by way of a writ petition before this Court and confined his submissions only to the quantum of punishment. However, vide order dated 20.11.2008, the learned Single Bench dismissed the writ petition, thereby upholding the order of dismissal. Even in the present appeal, learned counsel for the petitioner-appellant has confined his submissions only to the quantum of punishment.

24. Upon a close scrutiny of the order passed by the Disciplinary Authority, we find that, in respect of Charge Nos. 2, 3 and 4, no specific finding or discussion has been recorded, apparently on the ground that the petitioner-appellant had been acquitted in the criminal case. The only discussion in the impugned order pertains

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to Charge No. 1, relating to the petitioner-appellant's willful absence from duty from 19.02.1996 to 03.02.1997. Interestingly, even the aforesaid period of absence was regularized by granting extraordinary leave to the petitioner-appellant. Thus, in the considered opinion of this Court, the order dated 07.01.1998 passed by the Disciplinary Authority is, in itself, contradictory. On the one hand, the period of alleged willful absence from duty was regularized by granting extraordinary leave; on the other hand, in respect of Charge Nos. 2, 3 and 4, the Disciplinary Authority recorded that, since the petitioner-appellant had been acquitted in the criminal case, no punishment could be imposed upon him. We further note that the Appellate Authority and the Revisional Authority affirmed the order of the Disciplinary Authority on the same basis.

25. In the case in hand, the authorities have failed to consider that absence from duty without prior permission may constitute unauthorized absence, however, unauthorized absence and willful absence are not necessarily identical and the circumstances in which the employee remained absent as well as the material supporting the same has to be considered before determining the nature and gravity of the misconduct. The Hon'ble Supreme Court recently had an occasion to consider the issue of unauthorized absence and willful absence in the case of ***Mithilesh Kumar Pathak versus Union of India, 2026 INSC 1219*** and has held in para no 10 as under :

> "10. Tested on the aforesaid principles, we are of the considered view that the Division Bench erroneously set aside the order passed by the Single

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> Judge. Absence from duty without prior permission may constitute unauthorised absence; however, unauthorised absence and wilful absence are not necessarily synonymous. The circumstances in which an employee remained absent, the explanation furnished, and the material supporting that explanation must be considered before determining the nature and gravity of the misconduct. Illness or other circumstances beyond an employee's control may be relevant to that determination, though they do not, by themselves, automatically excuse the entire period of absence."

26. In the present case, in the charge-sheet issued, the first delinquency levelled against the appellant was with regard to unauthorized absence from 19.02.1996 till 03.02.1997, however, the disciplinary authority by way of the impugned order dated 07.01.1998 had held that the period from 15.04.1996 till 03.02.1997 cannot be treated as unauthorized absence as the appellant was behind the bars during that period and only the period from 19.02.1996 till 15.04.1996 i.e. 56 days were treated as unauthorized absence. It is thus clear that the disciplinary authority was conscious of the fact that the absence for the period post 15.04.1996 could not be treated as unauthorized as the circumstances existed, which were beyond the control of the appellant for remaining absent during that period. Be that as it may, for the unauthorized absence of 56 days, punishment of dismissal has been imposed by the disciplinary authority and thereafter, in the same order, the period from 19.02.1996 till 15.04.1996 has been regularized by way of treating the same as leave without pay.

27. The issue for consideration in the present case is as to whether such a conflicting order could have been passed by the

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disciplinary authority. For the above-mentioned purpose, reference to Rule 86 of the Rajasthan Civil Services Rules, 1951 (hereinafter referred to as 'the Rules of 1951') will be relevant, which reads as under:-

> *"**[Rule 86. Absence after expiry of leave**:-*
> *(1) A Government servant who is absent from duty without leave or before leave applied for has been sanctioned by the competent authority shall be treated to have remained willfully absent from duty; and such absence shall amount to interruption in service involving forfeiture of past service unless, on satisfactory reasons being furnished, the absence is regularized by grant of leave due or is commuted into extra-ordinary leave by the authority competent to sanction leave.*
> *(2) [(a)] A Government servant who remains absent from duty after the expiry of the sanctioned leave or after communication of refusal of extension of leave is not entitled to any pay and allowances for the period of such absence and the period of such absence shall be commuted into extra ordinary leave unless on satisfactory reasons being furnished, the period of absence is regularized by grant of leave due by the authority to grant leave.*
> *[(b) Willful absence from duty after the expiry of leave renders a Government servant liable to disciplinary action.]*
> *[(3) Notwithstanding the provisions contained in sub-rules (1) and (2) above the disciplinary authority may initiate departmental proceeding under Rajasthan Civil Services (Classification, Control & Appeal) Rules against a Government servant who willfully remains absent from duty for a period exceeding one month and if the charge of willful absence from duty is proved against him, he may be removed from service.]*
> *[(4).....…"*

A perusal of sub-Rule (1) of Rule 86 will clearly reveal that by grant of any leave due or commutation of the period into extra ordinary leave by the competent authority, the period of absence stands regularized. Further Rule 96 of the Rules of 1951, which provides for grant of extraordinary leave is also relevant for the present controversy, which reads thus:-

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*"**96. Extraordinary Leave.** – (a) Extraordinary leave may be granted to a Government servant in special circumstances –*

(i) when no other leave is by rule admissible, or

(ii) when other leave is admissible, but the Government servant concerned applies in writing for the grant of extraordinary leave.

(b) Except in the case of a Government servant in perma-nent-employ, [] the duration of extraordinary leave shall not exceed three or eighteen months on any one occasion, the longer period being admissible, subject to such conditions as the Government may by general or special order prescribe, only when the Government servant concerned is undergoing treatment for-

(i) Pulmonary Tuberculosis in a recognised Sanatorium, or

(ii) Tuberculosis of any other part of the body by a qualified Tuberculosis Specialist or a Civil Surgeon, or

(iii) Leprosy in a recognised Leprosy Institution or by a Civil Surgeon or a Specialist in Leprosy recognised as such by the State Administrative Medical Officer concerned.

@"Provided that a temporary employee who has been appointed after regular selection as per recruitment rules and who has completed three years regular service shall be entitled to extra ordinary leave on the scales admissible to a permanent Government servant."

(b) (A)-Where the extraordinary leave is granted, under sub-rule (b), to a Government servant undergoing treatment for T. B. and he resumes his duty after availing of such leave and earns subsequently half pay leave, the extraordinary leave so availed of by him will be converted into half pay leave and it shall be adjusted against the half pay leave earned."

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This coupled with Rule 20 of the Rajasthan Pension Rules, 1996 (hereinafter referred to as 'Rules of 1996') will reveal that extraordinary leave is essentially a leave without pay and allowances and shall be counted only for the purpose of counting of qualifying service and no other benefits shall accrue to the government servant. For the purpose of ready reference, Rule 20 of the Rules of 1996 reads as under:-

> "***20. Counting of periods spent on leave***
>
> *(1) All leave during service for which leave salary is payable shall count as qualifying service.*
>
> *2) Extra ordinary leave i.e. leave without pay and allowances, shall count as qualifying service only if taken in any of the circumstances mentioned below:-*
>
> *(i) on medical certificate granted by the Authorised Medical Attendant;*
>
> *(ii) for prosecuting higher scientific and technical studies;*
>
> *(iii) due to the inability of the Government servant concerned to join or rejoin duty due to civil commotion or a natural calamity.*
>
> *Every order for grant of extra ordinary leave to a Government servant should specify the purpose for which leave has been taken and as to whether the period would qualify for pension under this rule. An entry to this effect should also be made in the Service Book, alongwith the issue of the order"*

28. Thus, the issue for consideration would be as to whether post passing the order of punishment while treating the delinquency of unauthorized absence, can the authority subsequently pass an order granting leave for the period in question and as to whether by way of passing of subsequent order of granting leave, whether the delinquency stands washed away or not ?

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29. Such issue in hand was considered by the Hon'ble Apex Court in the case of ***State of Punjab & Ors. Vs. Dr. P.S. Singla (Civil Appeal No.4969/2008)*** decided on 31.07.2008, wherein the Hon'ble Apex Court in Paragraph Nos.10 & 11 has held as under:-

> *"10. Where the employee who is unauthorizedly absent does not report back to duty and offer any satisfactory explanation, or where the explanation offered by the employee is not satisfactory, the employer will take recourse to disciplinary action in regard to the unauthorised absence. Such disciplinary proceedings may lead to imposition of punishment ranging from a major penalty like dismissal or removal from service to a minor penalty like withholding of increments without cumulative effect. The extent of penalty will depend upon the nature of service, the position held by the employee, the period of absence and the cause/explanation for the absence. Where the punishment is either dismissal or removal, it may not be necessary to pass any consequential orders relating to the period of unauthorized absence (unless the rules require otherwise). Where the punishment awarded for the unauthorized absence, does not result in severance of employment and the employee continues in service, it will be necessary to pass some consequential order as to how the period of absence should be accounted for and dealt with in the service record. If the unauthorized absence remains unaccounted, it will result in break in service, thereby affecting the seniority, pension, pay etc., of the employee. Any consequential order directing how the period of absence should be accounted, is an accounting and administrative procedure, which does not affect or supersede the order imposing punishment.*
>
> *11. In this case, the punishment was imposed by order dated 16.9.1999/11.10.1999. That order was not cancelled, revoked or withdrawn. The subsequent order*

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dated 25.1.2001 merely accorded extraordinary leave in regard to the period of absence, but did not condone the unauthorized absence nor wipe out the punishment already imposed. The said order was only consequential to the imposition of punishment. Its effect was to maintain continuity of service of the respondent, but deny salary for the period of absence and not to count the period of absence as qualifying service for the purposes of pension. Its effect is certainly not to exonerate the respondent from the charge of unauthorised absence nor to wipe out the punishment. If the intention was to revoke the punishment, the order dated 25.1.2001 would have clearly stated so. But it did not."

The above-mentioned case pertained to imposing the punishment of withholding of five annual grade increments with cumulative effect only and not the case of termination, however, the Hon'ble Supreme Court clarified that where the punishment is either dismissal or removal, it may not be necessary to pass any consequential order relating to the period of unauthorized absence. This itself clarifies that in case of punishment imposed being of dismissal or removal, passing any order relating to period of unauthorized absence, would have an impact upon the punishment in question.

30. Had it been a case of imposing the punishment less than the punishment of dismissal or removal then definitely for the purpose of consideration of the period in question, consequential order was required to be passed, may be by granting extraordinary leave or other leave so that the service record of the delinquent employee can be considered in accordance with law. However, as far as the punishment of dismissal or removal is concerned, the employee

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concerned is not entitled for grant of any pensionary or any other benefits qua the period in question. This coupled with the persual of provisions of Rule 20 of the Rules of 1996 which provides that extraordinary leave will be the leave without pay and allowances and that period can only be counted for the purpose of counting the qualifying services clarify that for the period in question, no benefits can be granted. Thus, in case of dismissal or removal, there is no requirement of passing any order qua the period during which the delinquent remained unauthorizedly absent. However, once the disciplinary authority proceeds to pass any order qua the period in question, the same would amount to regularizing the period of unauthorized absence as has been done in the present case, more particularly, when the punishment imposed was dismissal from service. In the present case, when the disciplinary authority itself has considered the same and regularized the period of absence by granting extraordinary leave, then the said period of absence cannot be treated as unauthorized or a misconduct.

31. This aspect of the matter has neither been considered by the authorities below nor by the learned Single Bench. The fact that the disciplinary authority by way of the same order has regularized the absence attains great significance in the case in hand and thus, by way of the same stroke of pen, he cannot at one instance regularize the absence and on the other instance hold that the petitioner is guilty of unauthorized absence, more particularly, when punishment of dismissal is imposed. The same

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would amount to appropriating and re-probating by the same authority, which is not at all permissible.

32. In the opinion of this Court, in the aforesaid circumstances, the petitioner-appellant could not have been dismissed from service by the Disciplinary Authority. However, we cannot lose sight of the fact that these aspects were not specifically pressed into service before any of the authorities, including the learned Single Bench as only ground taken before the learned Single Bench was with regard to punishment imposed being disproportionate. Nevertheless, upon examination of the record, we are of the considered opinion that the order of dismissal dated 07.01.1998 is not sustainable.

33. At the same time, while considering the question of appropriate relief, we take note of the fact that the petitioner-appellant had served the respondent-Department as a Constable for a period of five years and that his service record was not satisfactory. The record indicates that the petitioner-appellant had adopted a casual approach towards the discharge of his official duties. It has also been recorded in the order of the Disciplinary Authority that the petitioner-appellant's past conduct was far from satisfactory and that he was habitual in committing acts of dereliction of duty. It is well settled that the Police Department is a disciplined force, wherein adherence to discipline, devotion to duty and a sense of responsibility are of paramount importance.

34. The Hon'ble Supreme Court, in a catena of judgments, has consistently held that where reinstatement of an employee is not feasible and the orders passed by the Competent Authority are

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found to be legally unsustainable, grant of monetary compensation would be an appropriate and equitable remedy to adequately compensate the employee and redress the injustice caused to him.

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35. The Hon'ble Supreme Court, in the case of ***O.P. Bhandari v. Indian Tourism Development Corporation Limited & Others***, reported in ***(1986) 4 SCC 337***, in para Nos.6 & 7 has held as under:-

> *"6. Time is now ripe to turn to the next question as to whether it is obligatory to direct reinstatement when the concerned regulation is found to be void. In the sphere of employer-employee relations in public sector undertakings, to which Article 12 of the Constitution of India is attracted, it cannot be posited that reinstatement must invariably follow as a consequence of holding that an order of termination of service of an employee is void. No doubt in regard to "blue collar" workmen and "white collar" employees other than those belonging to the managerial or similar high level cadre, reinstatement would be a rule, and compensation in lieu thereof a rare exception. Insofar as the high level managerial cadre is concerned, the matter deserves to be viewed from an altogether different perspective -- a larger perspective which must take into account the demands of National Interest and the resultant compulsion to ensure the success of the public sector in its competitive co-existence with the private sector. The public sector can never fulfil its life aim or successfully vie with the private sector if it is not managed by capable and efficient personnel with unimpeachable integrity and the requisite vision, who enjoy the fullest confidence of the "policy-makers" of such undertakings. Then and then only can the public sector undertaking achieve the goals of (1) maximum production for the benefit of the community, (2) social justice for workers, consumers and the people, and (3) reasonable return on the public funds invested in the undertaking.*
>
> *7. It is in public interest that such undertakings or their Boards of Directors are not compelled and obliged to entrust their managements to personnel in whom, on reasonable grounds, they have no trust or faith and with whom they are in a bona fide manner unable to function harmoniously as a team working arm-in-arm with success in the aforesaid three- dimensional sense as their common goal. These factors have to be taken into account by the court at the time of passing the*

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> *consequential order, for the court has full discretion in the matter of granting relief, and the court can sculpture the relief to suit the needs of the matter at hand.* ***The court, if satisfied that ends of justice so demand, can certainly direct that the employer shall have the option not to reinstate provided the employer pays reasonable compensation as indicated by the court.****"*

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36. The Hon'ble Supreme Court, in ***Jayant Vasantrao Hiwarkar v. Anoop Ganpatrao Bobde***, reported in ***(2017) 11 SCC 244***, upheld the award of monetary compensation in lieu of reinstatement, particularly considering that the respondent had rendered services for a period of only one year.

37. The Hon'ble Supreme Court, in ***Maharashtra State Road Transport Corporation v. Mahadeo Krishna Naik***, reported in ***2025 INSC 218***, decided on 14.02.2025, observed that in cases of wrongful termination of an employee, award of lump-sum monetary compensation may, in appropriate circumstances, be a more suitable remedy than reinstatement with back wages. The Court further observed that while directing the payment of such compensation, the Courts are required to duly justify their approach by balancing the respective interests of both the employee and the employer. In this regard, the Hon'ble Supreme Court observed in paragraph 45 as under:-

> "45. *We hasten to add that the courts may be confronted with cases where grant of lump sum compensation, instead of reinstatement with back wages, could be the more appropriate remedy. The courts may, in such cases, providing justification for its approach direct such lump sum compensation to be paid keeping in mind the interest of the employee as well as the employer.,"*

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38. We further take note of the fact that the petitioner-appellant has remained out of service for more than 28 years. In these circumstances, we are of the view that reinstatement of the petitioner-appellant at this stage would not be appropriate, particularly having regard to the nature of the service and the requirement of discipline in the Police Department. At the same time, we are conscious of the fact that the petitioner-appellant deserves to be suitably compensated for the hardship and agony suffered by him on account of an unsustainable order of dismissal. In order to mitigate the hardship caused to the petitioner-appellant and to meet the ends of justice, we deem it appropriate to award him a lump-sum compensation of Rs.20,00,000/- (Rupees Twenty Lakhs Only), to be paid by the State Government, in lieu of reinstatement, for having been kept out of service for all these years pursuant to an unsustainable order passed by the respondent-Authorities.

39. Consequently, the present Special Appeal (Writ) is disposed of with a direction to the State Government to pay a lump-sum compensation of Rs.20,00,000/- (Rupees Twenty Lakhs Only), to the petitioner-appellant within a period of three months from the date of receipt of a certified copy of this judgment, failing which interest @6% per annum shall be paid to the appellant till the date of actual payment of the compensation amount awarded by this Court. The petitioner-appellant shall not be entitled to reinstatement or any consequential service benefits. Hence, the writ petition also disposed of accordingly.

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40. The stay petition and all pending application(s), if any, also stand disposed of accordingly.

(SANDEEP SHAH),J **(VINIT KUMAR MATHUR),J**

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C.P.Goyal

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