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

**104 (3 cases)** **CWP-5947-2025**
**Date of Decision: 29.07.2025**

**Lakhwinder Singh** **…Petitioner**

**Versus**

**State of Punjab and others** **…Respondents**

**With**

**CWP-5983-2025**

**Sawinder Singh** **…Petitioner**

**Versus**

**State of Punjab and others** **…Respondents**

**And**

**CWP-6020-2025**

**Nishan Singh** **…Petitioner**

**Versus**

**State of Punjab and others** **…Respondents**

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: - Mr. Anupam Bhardwaj, Advocate for the petitioner
(in all the petitions)

Mr. Aman Dhir, Deputy Advocate General, Punjab
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**JAGMOHAN BANSAL, J**. (Oral)

1. As common issues are involved in the captioned petitions, with the consent of both sides, the same are hereby disposed of by this common

order. For the sake of brevity and convenience, facts are borrowed from *CWP-5947-2025*.

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

i. enquiry/conclusion report (Annexure P-5);

ii. order dated 07.03.2024 (Annexure P-6) passed by Senior Superintendent of Police, Tarn Taran vide which annual increments for a period of 5 years in the sanctioned service on permanent basis have been withheld and his dismissal period w.e.f. 14.09.2019 to 24.07.2023 has been held to be without duty and without pay.

iii. order dated 02.01.2025 (Annexure P-7) passed by Director General of Police, Punjab vide which appeal preferred by him has been dismissed.

3. The petitioner joined Punjab Police Force as Constable on 15.04.1988. From time to time, he came to be promoted. Vide order dated 14.09.2019 (Annexure P-1), he was dismissed from service by invoking Clause (b) of second proviso to Article 311 (2) of the Constitution of India. He preferred *CWP No.14107 of 2020* before this Court which came to be allowed vide order dated 11.01.2023 (Annexure P-3). The order of dismissal from service was set aside and authorities were directed to conduct enquiry in accordance with law. The relevant extracts of order dated 11.01.2023 are reproduced as below:-

> *"The impugned order when tested on the touchstone of the aforesaid principles, this Court finds that the reasons recorded by the Authority in dispensing with the inquiry fall short. In fact there is no reason recorded by the Authority to justify dispensing with the inquiry. Thus, the impugned order cannot be sustained. The Authority cannot dispense with the inquiry arbitrarily. Mere reproduction of the statutory expression cannot have an effect of dispensing with the Constitutional obligation casted upon the authority to give cogent reason for dispensing with the inquiry. The Competent Authority was not expected to dispense with the inquiry lightly as has been done in the present case. It was required to take into consideration the facts and circumstances of the case and apply its mind which is found to be missing in the impugned order. No material has been placed on record to justify the casual approach or to back the satisfaction of the authority to dispense with the inquiry.*
>
> *I may hastenly add here that this Court while entertaining the present writ petition has deliberately not ventured into the merits and facts of the case. The impugned order has been tested merely on the touchstone of Article 311(2) of the Constitution of India.*
>
> *Liberty is granted to the respondents to proceed against the petitioner in accordance with law.*
>
> *Resultantly, the present writ petitions are allowed. Impugned order dated 14.09.2019 annexed with the present writ petition along with subsequent orders thereto are hereby quashed with liberty to the respondents as stated herein above."*

4. Pursuant to aforesaid order, the respondent appointed Enquiry Officer who found the petitioners guilty of the alleged offence. The allegation against the petitioners was that they were part of a team which raided premises of a drug smuggler. During the raid, the drug smuggler with the help of his companions attacked head of the team. The petitioners

remained mute spectators and their leader was badly injured. A video of the incident went viral.

5. The Disciplinary Authority, on the basis of opinion of Enquiry Officer, awarded punishment of stoppage of five increments with cumulative effect. It is apt to notice that in the earlier round of litigation, the petitioners were dismissed from service, however, at this stage, they were awarded punishment of forfeiture of increments. The petitioners unsuccessfully preferred appeal before higher authority.

6. Learned counsel for the petitioner submits that report of Enquiry Officer is contrary to actual facts and figures. The witnesses led by petitioners have categorically deposed that petitioners actively participated in the raid and there was no lapse on their part. The Enquiry Officer mechanically ignored deposition of the petitioners' witnesses and held them guilty. The Disciplinary Authority as well as higher authorities have mechanically imposed punishment of forfeiture of increments and further declared the period of absence as non-duty.

7. I have heard the arguments of learned counsel for the petitioner and perused the record with their able assistance.

8. The petitioners are primarily assailing findings of Enquiry Officer. The matter was considered by Disciplinary Authority which taking a lenient view substituted the earlier order of dismissal from service by lesser punishment of forfeiture of increments.

9. Scope of interference while exercising jurisdiction under Articles 226/227 of the Constitution of India in disciplinary proceedings is

very limited. The Court has no power to look into quantum of sentence/punishment unless and until it finds that sentence awarded is disproportionate to alleged offence. It is further settled proposition of law that High Court while exercising its jurisdiction under Article 226 of Constitution of India can look into the procedure followed by authorities. In case, it is found that Enquiry Officer or Disciplinary Authority has not considered any evidence on record or misread the evidence or procedure as prescribed by law has not been followed, the Court can interfere. A two-Judge Bench of Supreme Court in ***Union of India and others* v. *Subrata Nath, (2022) SCC OnLine 1617*** while adverting with scope of interference under Article 226 of the Constitution of India in disciplinary proceedings has held that departmental authorities are fact finding authorities. On finding the evidence to be adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct. The Supreme Court has considered its judicial precedents including a two-Judge Bench judgment in ***Union of India and Others* v. *P. Gunasekaran, (2015) 2 SCC 610***. The relevant extracts of the judgment read as: -

> *"18. Laying down the broad parameters within which the High Court ought to exercise its powers under Article 226/227 of the Constitution of India and matters relating to disciplinary proceedings, a two Judge Bench of this Court in Union of India and Others v. P. Gunasekaran held thus :*
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> > *"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 re-appreciation 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."*

*XXXX XXXX XXXX XXXX*

*21. To sum up the legal position, being fact finding authorities, both the Disciplinary Authority and the Appellate Authority are vested with the exclusive power to examine the evidence forming part of the inquiry report. On finding the evidence to be adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct. However, in exercise of powers of judicial review, the High Court or for that matter, the Tribunal cannot ordinarily reappreciate the evidence to arrive at its own conclusion in respect of the penalty imposed unless and until the punishment imposed is so disproportionate to the offence that it would shock the conscience of the High Court/Tribunal or is found to be flawed for other reasons, as enumerated in P. Gunasekaran (supra). If the punishment imposed on the delinquent employee is such that shocks the conscience of the High Court or the Tribunal, then the Disciplinary/Appellate Authority may be called upon to re-consider the penalty imposed. Only in exceptional circumstances, which need to be mentioned,*

*should the High Court/Tribunal decide to impose appropriate punishment by itself, on offering cogent reasons therefore."*

10. The Supreme Court has time and again reminded that High Court cannot examine factual position and disturb findings recorded by departmental authorities. The Court has further held that High Court cannot re-quantify quantum of punishment, however, if Court finds that punishment awarded is disproportionate to alleged offence, the Court may ask the authorities to re-consider quantum of punishment.

11. Different Benches of Supreme Court including a Constitution Bench in ***Syed Yakoob v. K.S. Radhakrishnan, AIR 1964 SC 477*** and a two Judge Bench recently in ***Central Council for Research in Ayurvedic Sciences and another v. Bikartan Das and others, 2023 SCC Online SC 996*** have reminded us that there are two cardinal principles of law governing issuance of writ of certiorari under Article 226 of the Constitution of India i.e. (i) High Court does not exercise the powers of Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior Tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record; (ii) In a given case, even if some action or order challenged in the writ petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties. It is perfectly open for the writ court, exercising this flexible power to pass such orders as public

interest dictates & equity projects. The High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal court of appeal which it is not.

12. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals. Error of jurisdiction includes order by inferior court or tribunal without jurisdiction or in excess of it or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an Appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be 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 the Tribunal, a writ of certiorari 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. Similarly, 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. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned 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, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised.

13. From the perusal of record, it is evident that the petitioners were part of a team comprising more than five members which conducted raid on the residence of a drug smuggler. The team was led by Sub-Inspector Baldev Singh. He was badly beaten up by the smuggler and his companions. A video of the incident went viral. In the video, it was found that the petitioners did not try to save Head of their team. They let the culprits beat their team leader. The act of the petitioners was reprehensible and deplorable. The findings recorded by Enquiry Officer are reproduced as below: -

> *"I have carefully perused the original order appended with the file of departmental inquiry; gist of charges; statements of witnesses to complaint; charge sheet; and statements of defence witnesses produced by delinquent ASI/LR Lakhwinder Singh no. 1770/T.T. and statement in defence made by the delinquent himself. From appraisal thereof, it has been ascertained that on dated 13.09.2019 delinquent ASI/LR Lakhwinder Singh No. 1770/T.T.; Const. Kuldeep Singh no. 768/T.T.; ASI/LR Sawinder Singh No.*

*736/T.T. and Const. Nishan Singh No. 546/T.T. accompanied Incharge of their police party, namely, Baldev Singh No. 843/T.T. to village Chogawan, Police Station Lopoke for conducting raid on the houses of accused persons booked in F.I.R. No. 64/19 Police Station Kacha Pucca, namely, Jugraj Singh son of Kuldeep Singh and Amandeep Singh son of Sajatar Singh, resident of Chogawan, Police Station Lopoke. At that time, family members of aforesaid accused persons had given brutal bearings to S.I. Baldev Singh No. 843/T.T., Incharge of Police party went for conducting road, but, at that time, delinquent A.S.I./L.R. Lakhwinder Singh no. 1770/T.T. did not make any endeavour to get his Incharge freed, rather, kept on watching the show by becoming a mute spectator. During inquiry, on watching the vide went viral on You Tube it has been ascertained by me that delinquent ASI/LR Lakhwinder Singh no. 1770/T.T. was visualized to be wandering on the spot in relax mood, whereas, it was obligatory on his part that he should have provided assistance to his Incharge S.I. Baldev Singh no. 843/T.T. on the spot and should have resisted family members of accused persons, but, he has not done so. Because of such negligence on his part, Shri Dhrub Dahiya, I.P.S., the then Senior Superintendent of Police, Tarn Taran, being competent authority for recording dismissal, vide his office order no. 2711-16/P.S. dated 14.09.2019, respectively had dismissed the delinquent ASI/LR Lakhwinder Singh no. 1770/T.T. from the government service of police department with immediate effect under Punjab Police Rules 16.1 Read with section 7 of Police Act, 1961 and Article 311(2) (b) of Constitution of India. As per statements of witness to complaint, namely, Head Munshi, Police lines, Tarn Taran, dismissal period of delinquent ASI/LR Lakhwinder Singh no. 1770/T.T. from the service of police department comes to be about 1471 days. After perusal the original order appended with the file of departmental inquiry; gist of charges; statements of witnesses to complaint; charge sheet; and statements of defence witnesses produced by delinquent ASI/LR Lakhwinder Singh*

> *no. 1770/T.T. and statement in defence made by the delinquent himself and after making consideration thereupon, I have arrived at a conclusion that the allegations levelled in the departmental inquiry initiated against L.R./ASI Lakhwinder Singh No. 1770/T.T. stand duly proved and inclusion of his dismissal period of about 1471 days into without duty without pay is made out."*

14. The Enquiry Officer, Disciplinary Authority and Appellate Authority have examined act and conduct of the petitioners. They were found guilty of misconduct. They have been awarded punishment proportionate to their alleged offence. This Court does not find any factual, procedural or legal infirmity warranting interference.

15. In the wake of above discussion and findings, this Court is of the considered opinion that present petitions being bereft of merit deserve to be dismissed and accordingly dismissed.

**(JAGMOHAN BANSAL)**
**JUDGE**

**29.07.2025**
*Mohit Kumar*

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| Whether speaking/reasoned | Yes/No |
| Whether reportable | Yes/No |