



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

CWP-7690-2001 (O & M)
Date of Decision: 14.07.2025

Radhey Shyam

.....Petitioner(s)

Versus

The Bhiwani Central Cooperative Bank Ltd. and another

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Ms. Bhagyashri, Advocate,
for the petitioner.

Mr. S.S. Dalal, Advocate,
for the respondents.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226 and 227 of the Constitution of India is seeking setting aside of order dated 22.05.1997 whereby he was dismissed from service.

2. The petitioner joined respondent as Clerk in August' 1980. He was made cashier in 1983. A case of embezzlement was unearthed in March' 1994. The petitioner was *prima facie* found guilty, thus, he was placed under suspension. He was issued charge sheet. An FIR No. 76 dated 12.03.1994 under Section 409 IPC at Police Station City Bhiwani was registered against him. He confessed before bank officials that he was in need of funds so he had utilized Rs.7,05,000/- for his personal use. He came to be dismissed vide order dated 22.05.1997. He was acquitted in criminal proceedings vide judgment dated 13.01.1997 passed by Trial Court. He preferred an appeal before Registrar,



Cooperative Societies, Haryana. The said appeal came to be dismissed vide order dated 16.04.1998.

3. Ms. Bhagyashri, learned counsel for the petitioner submits that petitioner was acquitted in the criminal proceedings, thus, there was no reason to dismiss him from service. The confessional statement was mechanically relied upon. There was no corroborative evidence.

4. Learned counsel for the respondents submits that scope of interference in departmental proceedings is very limited. Acquittal in criminal proceedings does not automatically mean extinguishment of departmental proceedings. Both the proceedings are independent.

5. I have heard the arguments and perused the record.

6. 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 Court 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 Hon'ble Supreme Court in ***Union of India and others vs. Subrata Nath, 2022 LiveLaw (SC) 998*** 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 Hon'ble Supreme Court has considered its judicial precedents including a two-judge Bench judgment in ***Union of India and Others v. P. Gunasekaran***. The relevant extracts of the judgment read as :

“19. 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 :

“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) reappraise 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.”

X X X X X

22. 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.”

7. 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.

8. The sole ground to challenge findings of Departmental Authorities is acquittal in criminal case. This Court is of the considered opinion that if criminal proceedings are initiated besides departmental proceedings, the outcome of departmental proceedings, in view of the fact that both proceedings are independent and different yardstick is applied, cannot be ignored or brushed aside on account of dropping of criminal proceedings. In case of departmental proceedings, the department is not bound to prove its case beyond the reasonable doubt because findings depend upon preponderance of probability.

9. The petitioner has failed to point out any material infirmity in the impugned orders warranting interference of this Court. The authorities have followed procedure prescribed by law and petitioner was found guilty of mis-conduct.

10. Dismissed.

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

14.07.2025
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
Yes