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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10785-2025
Date of Decision: 28.07.2025

GURINDER SINGH ..... Petitioner

Versus

STATE OF PUNJAB AND OTHERS ..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. R.S. Sidhu, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

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JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of:

(i) Order dated 23.12.2023 (Annexure P-5) whereby he was awarded punishment of forfeiture of one year approved service;

(ii) Order dated 16.04.2024 (Annexure P-7) whereby his appeal has been dismissed; and

(iii) Order dated 10.01.2025 (Annexure P-9) whereby his appeal has been dismissed.

2. The petitioner is part of Punjab Police Force. An FIR No.235 dated 23.12.2023, under Sections 326, 325, 324, 323, 506, 148 and 149 of IPC at Police Station Sadar, Tarn Taran was registered against him. On account of said FIR, he was suspended vide order dated 23.12.2023 and a departmental inquiry was initiated. The aforesaid FIR came to be set aside vide order dated 20.09.2023 passed by this Court in ***CRM-M***

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No.37259 of 2023 titled as ***'Gurbir Singh and others Vs. State of Punjab and others'.*** The petitioner was found guilty by Enquiry Officer. The Enquiry Officer submitted his report to SSP who issued show cause notice dated 20.06.2023 calling upon the petitioner to show cause as to why his 10 years approved service should not be permanently forfeited. He filed reply to said show cause notice. The Disciplinary Authority vide order dated 23.12.2023 awarded punishment of forfeiture of one year approved service. He preferred an appeal before Appellate Authority which dismissed his appeal. He unsuccessfully preferred revision before DGP, Punjab.

3. Learned counsel for the petitioner submits that FIR against petition stands set aside by this Court, thus, impugned order is not sustainable.

4. From the perusal of record, it is evident that FIR was set aside by this Court on the ground of compromise. This Court has not adverted to merits of the case. There were serious allegations against the petitioner which led to registration of aforesaid FIR. The relevant extracts of order dated 23.12.2023 passed by punishing authority are reproduced as below:

> "*The comment report of the Superintendent of Police (Local) Tarn Taran was placed before me, and I carefully reviewed and considered it. In addition, I have taken into account the current status of the FIR, his length of service, and his past record. Taking a lenient view towards him, I have reduced the penalty proposed in the earlier show-cause notice and order that one (01) years of approved service of ASI/LR Gurwinder Singh No. 290/Tarn Taran be permanently forfeited for the purpose of salary increments. This*

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will affect his past earned service, and his suspension period will be treated as suspension period. He will not be entitled to salary and allowances for the suspension period. A copy of this order be provided to ASI/LR Gurwinder Singh No. 290/Tarn Taran free of cost."

5. 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 SCC OnLine SC 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 Hon'ble 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 :

"19. Laying down the broad parameters within which

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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*

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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."

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22. To sum up the legal position, being fact finding authorities, both the Disciplinary Authority and the

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> *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."*

6. A Constitution Bench in ***Syed Yakoob Vs K.S. Radhakrishnan***, **AIR 1964 SC 477** and a two judge bench of the Hon'ble Supreme Court recently in ***Central Council for Research in Ayurvedic Sciences and another Vs 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

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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.

7. 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

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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, High Court 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 Art. 226 to issue a writ of certiorari can be legitimately exercised.

8. The petitioner was found guilty by Enquiry Officer. He was issued show cause notice proposing forfeiture of 10 increments. The Disciplinary Authority taking lenient view, considering past record and length of service of the petitioner awarded punishment of forfeiture of one year approved service. The authorities duly followed prescribed

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procedure. The Authorities have recorded factual finding and there is no material irregularity or infirmity in those findings warranting interference.

9. In the wake of above discussion and findings, this Court is of the considered opinion that the instant petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

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Whether speaking/reasoned Yes/No
Whether Reportable Yes/No

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