



CWP-25542-2017 (O&M)

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

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Date of Decision: 21.08.2025

PRAKASHI DEVI

...Petitioner

Vs.

STATE OF HARYANA AND ORS.

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Sanjay Verma, Advocate
for the petitioner

Mr. Ravi Partap Singh, DAG Haryana

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 13.07.2015 and order dated 15.05.2017 whereby she was awarded punishment of stoppage of two annual future increments with temporary effect.

2. The petitioner joined Police Department as Clerk on 16.05.1989. The respondent in March' 2015 initiated departmental proceedings against her. It was alleged in the enquiry that she while posted with Commissioner of Police, Gurugram put up file of Constable Ajit Singh for promotion without his orders of punishment. She intentionally concealed factum of punishment awarded to Ajit Singh. She was awarded punishment of stoppage of two increments with permanent effect vide order dated 13.07.2015. She preferred an appeal before



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Government which came to be dismissed vide order dated 15.05.2017. The petitioner is primarily claiming that there were two co-accused who have not been awarded punishment whereas petitioner was isolated and awarded punishment.

3. Learned State counsel submits that order dated 23.09.2016 passed by Commissioner of Police Gurugram has been reviewed under PPR and vide order dated 05.10.2020 punishment of 5% cut in pension has been awarded to Sub Inspector Karam Singh for five years. The lady Head Constable-Monika has also been awarded punishment of stoppage of two annual increments vide order dated 12.04.2021 passed by DGP, Haryana.

4. I have heard learned counsel for the parties and perused the record of the case.

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.

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 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 mold 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 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 prime grievance of the petitioner was that she was not main accused and no punishment was awarded to co-accused. The respondent has already awarded punishment to co-accused HC-Monika and SI-Karam Singh. As co-accused has also been punished, the claim of the petitioner does not survive. There is no infirmity in impugned order warranting interference.



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

10. Pending application(s), if any stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

21.08.2025

Deepak DPA

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No