



CWP-4701-2001 (O&M)& -1-  
CWP-12096-2001 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

102 (02 cases)  
+209

CWP-4701-2001 (O&M)  
Date of Decision :21.05.2025

The Fazilka Co-operative Sugar Mills Ltd., Fazilka ...Petitioner

Versus

Sham Lal and another ..Respondents

CWP-12096-2001 (O&M)

Sham Lal ...Petitioner

Versus

The Fazilka Co-operative Sugar Mills Ltd., Fazilka ..Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: H.C. Arora, Advocate for the petitioner-workman  
in CWP-12096-2001 & for respondent No.1  
in CWP-4701-2001.

None for the petitioner-cooperative society in CWP-4701-2001  
& for respondent No.1 in CWP-12096-2001.

\* \* \*

**Harsimran Singh Sethi, J. (Oral)**

**CM-7340-CWP-2025 in CWP-4701-2001**  
**CM-7465-CWP-2025 in CWP-12096-2001**

Present applications have been filed for bringing on record the  
legal representatives of Sham Lal, who unfortunately died during the



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pendency of the present petition.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed. Legal representatives of Sham, Lal, details of whom have been given in para-4 of the application are ordered to be brought on record subject to all just exceptions.

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1.            In the present set of petitions, challenge is to the award dated 15.01.2001 (Annexure P/11) passed by the Presiding Officer, Labour Court, Bathinda by which, the punishment of dismissal from service was modified by the Labour Court with the direction of reinstatement in service with continuity and full back wages but with stoppage of two annual increment with cumulative effect.

2.            The said award dated 15.01.2001 (Annexure P/11) has been challenged by both i.e. employer as well as workmen. The employer is seeking the setting aside of the aforementioned impugned award on the ground that the modification of the punishment and direction of reinstatement in service with continuity and full back wages is incorrect whereas, the modification of punishment to that of stoppage of two annual increments with cumulative effect is under challenge at the hand of the workman.

3.            Learned counsel for the workman argues that once, the enquiry was held to be bad, the workman should have been reinstated in service with continuity and back wages without imposing any punishment as imposed by the Labour Court in the Award dated 15.01.2001.



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4. No has appeared on behalf of the employer.
5. I have heard learned counsel for the workman and have gone through the record with his able assistance.
6. The only reason given to hold that the enquiry was bad, was that the Enquiry Officer was legal advisor of the employer-cooperative society. No rule has been cited to show that the said Enquiry Officer was disqualified to conduct the enquiry.
7. Further argument of the learned counsel for the workman is that the said Enquiry Officer was also the retainer giving legal advice to the employer-cooperative society and hence should not have been appointed as Enquiry Officer.
8. Merely on the ground that the Enquiry Officer was the legal advisor and the retainer of the employer-cooperative society, unless and until, any malafides are proved or process envisaged under the rules to hold enquiry is violated, the enquiry report, which is based upon the facts and the material evidence, which have been brought on record should not have been set aside by the Labour Court while passing the Award dated 15.01.2001.
9. The prejudice should have been shown by the workman that the Enquiry Officer was biased. No such finding has been recorded by the Labour Court to hold that the Enquiry Officer was biased and did not perform the duty as an Enquiry Officer in accordance with law.
10. Once, such facts are missing, merely on the ground that the Enquiry Officer appointed was the retainer with the employer-cooperative society as an advocate, will be no ground to set aside the enquiry especially when, no prejudice was shown to have been caused to the workman has



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been brought on record. Merely that an assertion has been made by the workman that enquiry has not been conducted as per rules without citing any rules to record such finding that enquiry was not conducted in accordance with law, is no ground to modify the punishment given in the Award dated 15.01.2001 passed by Labour Court.

9. Further, the Labour Court is not equipped to modify the punishment unless and until, the same is shockingly disproportionate to the charges alleged and proved on record.

10. In the present case, the workman was subjected to departmental proceedings on the allegations that he was not performing his duties and had misconducted himself while performing the duty, which also involved an act of embezzlement. Once, the said charge has been proved against the workman in the domestic enquiry, which domestic enquiry was held in accordance with law without there being any prejudice caused to the workman qua the material evidence and facts brought on record, the modification of the punishment order by the Labour Court in the facts and circumstances of the present case, is without jurisdiction.

11. As per the settled principle of law settled by the Hon'ble Supreme Court of India in **Civil Appeal No.219 of 2023 titled as, Union of India and others vs. Const. Sunil Kumar decided on 19.01.2023**, the Court can only interfere in the punishment in case, the same is shockingly disproportionate to the charges alleged and proved against the employee concerned. The Hon'ble Supreme Court of India has held that even if, the punishment is disproportion but in case, the same is not shockingly disproportionate, the Court should not interfere with the jurisdiction of the



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employer to impose the punishment. The relevant paragraphs of the judgment are as under:-

6.2 Even otherwise, the Division Bench of the High Court has materially erred in interfering with the order of penalty of dismissal passed on proved charges and misconduct of indiscipline and insubordination and giving threats to the superior of dire consequences on the ground that the same is disproportionate to the gravity of the wrong. In the case of Surinder Kumar (supra) while considering the power of judicial review of the High Court in interfering with the punishment of dismissal, it is observed and held by this Court after considering the earlier decision in the case of [Union of India Vs. R.K. Sharma](#); (2001) 9 SCC 592 that in exercise of powers of judicial review interfering with the punishment of dismissal on the ground that it was disproportionate, the punishment should not be merely disproportionate but should be strikingly disproportionate. As observed and held that only in an extreme case, where on the face of it there is perversity or irrationality, there can be judicial review under [Article 226](#) or [227](#) or under [Article 32](#) of the Constitution.

6.3 Applying the law [laid down](#) by this Court in the aforesaid decision(s) to the facts of the case on hand, it cannot be said that the punishment of dismissal can be said to be strikingly disproportionate warranting the interference of the High Court in exercise of powers under [Article 226](#) of the Constitution of India. In the facts and circumstances of the case and on the charges and misconduct of indiscipline and insubordination proved, the CRPF being a disciplined force, the order of penalty of dismissal was justified and it cannot be said to be disproportionate and/or strikingly disproportionate to the gravity of the wrong. Under the circumstances also, the Division Bench of the High Court has committed a very serious error in interfering with the order of penalty of



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dismissal imposed and ordering reinstatement of the respondent.”

12. In the present case, without recording any finding on the evidence available that despite the fact that the allegations of embezzlement are proved, the punishment is shockingly disproportionate, the same has been modified by the Labour Court which cannot be accepted.

13. Keeping in view the totality of the facts and circumstances of the present case, award dated 15.01.2001 (Annexure P/11) being perverse to the facts and the settled principle of law noticed hereinbefore cannot be upheld and the same is accordingly set aside. Consequently, the writ petition No.12096-2001 filed by the workman is dismissed and CWP-4701-2001 filed by the petitioner-employer is allowed. It is made clear that since the award was stayed and any payment already made to the workman herein under Section 17-B of the Industrial Disputes Act, 1947 will not be recovered from him.

14. Civil Miscellaneous application pending, if any, is also disposed of.

15. A photocopy of this order be placed on the file of connected case.

**May 21, 2025**  
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**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

*Whether speaking/reasoned : Yes*  
*Whether reportable : No*