

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

**CWP No.1086 of 2023
Date of decision : 19.01.2023**

JAGAR SINGH @ JAGAR RAM

....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. R.K. Arya, Advocate
for the petitioner.

PANKAJ JAIN, J. (ORAL)

Present writ petition has been filed under Article 226/227 of the Constitution of India praying for issuance of writ in the nature of certiorari for quashing of order dated 10th of January, 2022 (Annexure P-4) passed by respondent No.4 whereby punishment of forfeiture of one year service towards annual increment with permanent effect has been awarded to the petitioner and the order dated 9th of August, 2022 placed on record at Annexure P-6, whereby the appeal preferred by the petitioner stands dismissed.

2. Counsel for the petitioner refers to investigation report in FIR No.165 dated 3rd of October, 2019 to submit that in the said report, the petitioner was found to be innocent and, thus, the same ought to have been taken into consideration while awarding punishment to the petitioner.

3. Trite it is that the punishing authority and the departmental

proceedings are different to the one which are conducted under Code of Criminal Procedure for investigating a criminal matter. Departmental Authorities are within their domain to return a finding which has different result and are not dependent upon the findings recorded in the criminal matter wherein the standard of proof is beyond reasonable doubt. Reference can be made to law laid down by Apex Court in **State of Karnataka vs. Umesh (2022) 6 SCC 563**, wherein it has been held that :-

“17. In the exercise of judicial review, the Court does not act as an appellate forum over the findings of the disciplinary authority. The court does not re-appreciate the evidence on the basis of which the finding of misconduct has been arrived at in the course of a disciplinary enquiry. The Court in the exercise of judicial review must restrict its review to determine whether: (i) the rules of natural justice have been complied with; (ii) the finding of misconduct is based on some evidence; (iii) the statutory rules governing the conduct of the disciplinary enquiry have been observed; and (iv) whether the findings of the disciplinary authority suffer from perversity; and (vi) the penalty is disproportionate to the proven misconduct. [11*] However, none of the above tests for attracting the interference of the High Court were attracted in the present case. The Karnataka Administrative Tribunal having exercised the power of judicial review found no reason to interfere with the award of punishment of compulsory retirement. The Division Bench of the High Court exceeded its jurisdiction under Article 226 and trenched upon a domain which falls within the disciplinary jurisdiction of the employer. The enquiry was conducted in accordance with the principles of natural justice. The findings of the inquiry officer and the disciplinary authority are sustainable with reference to the evidence which was adduced during the enquiry. The acquittal of the respondent in the course of the

criminal trial did not impinge upon the authority of the disciplinary authority or the finding of misconduct in the disciplinary proceeding.”

(emphasis supplied)

4. From bare perusal of the impugned order (Annexure P-5), it is evident that despite having been afforded number of opportunities, the petitioner failed to join the inquiry and the punishment was awarded only after the departmental inquiry found him guilty. As per settled proposition of law, this Court cannot set in appeal over the findings recorded by the departmental authorities.
5. Resultantly, no ground to interfere in the present writ petition is made out and the same is thus dismissed.

January 19, 2023
Dpr

(PANKAJ JAIN)
JUDGE

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