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

**CWP-10724-2023
Date of decision : 17.05.2023**

Rashpal Singh

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Chandan Singh Rana, Advocate
for the petitioners.

PANKAJ JAIN, J. (Oral)

Petitioner herein prays for issuance of a writ in the nature of certiorari seeking quashing of the order dated 29.11.2018 (P-3), order dated 02.08.2019 (P-4) passed by authorities, whereby the petitioner has been saddled with the punishment of forfeiture of one year of approved service for increment purposes with permanent effect.

2. Petitioner who was posted as ASI at Police Station Division No.5, Ludhiana was Investigating Officer in FIR No.78 dated 12.08.2018 registered for offences punishable under Sections 22/61/85 of the NDPS Act, 1985 alongwith FIR No.113 dated 10.04.2018 registered for offences under Section 22/61/85 of 1985 Act. Both of the FIRs were marked to the petitioner for investigation. The petitioner could not present the challan in time and was thereafter proceeded departmentally for the said lapse. Inquiry was conducted wherein the petitioner was held guilty of charges levelled against him. Concurring

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with the inquiry report, the punishing authority awarded the aforesaid punishment to the petitioner vide order dated 02.08.2019 (P-4).

3. Counsel for the petitioner submits that FSL reports were received only on 24.08.2018 and thereafter for a short while petitioner was transferred and was later on assigned certain extra duties due to which the report under Section 173(8) should not be presented in time. He further submits that the bail was accorded to the accused not on account of delay in presentation of investigation report, but for the reason that the quantity recovered was non-commercial and thus rigorous under Section 37 of NDPS Act were not applicable.

4. I have heard counsel for the petitioner and have gone through the records of the case.

5. Trite it is that this Court cannot sit as a Court of Appeal over the findings recorded by the Inquiry Officer. Apart therefrom, counsel for the petitioner has not been able to point out any legal infirmity in the procedure followed by the disciplinary authority. So far as the plea w.r.t. grant of bail is concerned, the same is inconsequential. However, at the same time this Court could not be oblivious of the fact that accused has a right to speedy trial and thus delay in presentation of report under Section 173(8) definitely delayed the trial. Even on the principle of proportionality, the Court does not find that the quantum of punishment awarded is shockingly disproportionate to the misconduct of the delinquent. Moreover, in '**Bhagwat Parshad vs. Inspector-General of Police, Punjab and others, 1967 SLR 807**', this Court held as under:-

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“xx xx xx

Another consideration which is worthy of weight, is the rule of contemporaneous construction placed by the officers or departments charged with the duty of acting upon it or executing it. In this case the Superintendent of Police, the Deputy Inspector General, and finally the Inspector General of Police, assessed the conduct of the petitioner to be of the requisite gravity so as to merit the imposition of the punishment of dismissal. The officers of the Police Department are charged with the duty of maintaining and observing discipline. As to the standard of discipline required to be enforced in their case the judgment of their superior officers deserves to be respected and should not be lightly interfered with. The police force is required to discharge highly responsible and onerous duties for maintenance of law and order and for other purposes essential to the life of the Community. These duties from their very nature have to be of an exacting nature. The result of laxity in conduct, or infringement of rules of discipline can undermine the optimum usefulness of the force.

Moreover, it was for the police officers who judged the infraction of the police rules to determine the seriousness of the misconduct and to decide upon the suitability of the punishment. It will not be within the ambit of the powers of this Court, when petitioner, to issue the extraordinary writs of certiorari, mandamus etc. to interfere with the discretion of the Heads of the Departments when it has not been exercised wantonly or arbitrarily. These are well settled limitations which High Courts impose upon themselves when

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exercising the extraordinary jurisdiction. As observed by the Supreme Court in *State of Orissa v. Bidyabhushan*, AIR 1963 SC 779 (786) the Court in a case In which an order of dismissal of a public servant is Impugned, is not concerned to decide whether the sentence imposed, provided it is justified by the rules, is appropriate having regard to the gravity of the misdemeanour established. The reasons, which induce the punishing authority, if there has been an enquiry consistent with the prescribed rules, are not justiciable; nor is the penalty open to review by the Court. The condition necessary for the issuance of a writ of certiorari is, that the order of the inferior tribunal suffers from an error which is apparent on the face of the record, or, in the exercise of its Jurisdiction, the tribunal has acted illegally or arbitrarily. The evidence has been considered and the conclusion drawn from its appraisal cannot be reopened. No error of fact will be corrected by this Court, when exercising its supervisory jurisdiction. It is not permissible to advance the argument, that the evidence adduced before the tribunal was insufficient or inadequate to sustain the impugned finding. This view is amply supported by a long series of decisions and reference may be made to *T. Prem Sagar v. Standard Vacuum Oil Company*, AIR 1965 SC 111 and *Syed Yakoob v. K. S. Radha Krishnan*, AIR 1964 SG 477.”

6. The same was approved by the Apex Court in the case of ‘*State of Punjab vs. Ram Singh Ex. Constable 1992(4) SCC 54*’. This Court does not find that there is any reason that warrants interference while exercising writ jurisdiction.

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7. Resultantly, the present writ petition is dismissed.

(PANKAJ JAIN)
JUDGE

17.05.2023

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Whether speaking/reasoned : Yes

Whether Reportable : No