

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.15509 of 2023
DECIDED ON: 01.08.2023

Charanjit Kaur

.....Petitioner

VERSUS

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr.Vivek Sharma, Advocate, for the petitioner.
Mr. Vishnav Gandhi, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. The petitioner, by way of this petition, assails the order of Punishment dated 24.01.2022 (Annexure P-14), whereby she has been compulsorily retired from service and also prays for quashing of the Inquiry Report dated 29.10.2021, whereby the charges levelled against the petitioner were proved by the Inquiry Officer and also challenged the Appellate Authority order dated 18.01.2023 (Annexure P-18) whereby her appeal preferred against the punishment order passed by the Disciplinary Authority has been dismissed.

2. Learned counsel for the petitioner submits that the petitioner has not demanded bribe and the complainant has also not been able to prove that the petitioner demanded bribe infact it has

only been stated before the Inquiry Officer that the bribe was demanded by way of code words.

3. Learned counsel submits that the petitioner has an immaculate service record to her credit and at the fag end of her service after having completed 30 years, the allegations have been levelled wrongfully by the complainant, who was a Lumberdar and was pressurising the petitioner. Learned counsel submits that the Inquiry Report relies on the statement of the complainant which in itself is not sufficient for holding the petitioner guilty.

4. Learned counsel has also further stated that the Inquiry Officer got the statements of other witnesses recorded from the Presenting Officer and the Inquiry Officer has acted in connivance with the Presenting Officer to hold the petitioner guilty of the said charges. The FSL report also reflects that the voice in the CD was that of the complainant.

5. I have considered the submissions and carefully perused the Inquiry Report as well as the order passed by the Disciplinary Authority.

6. The scope of judicial review in departmental inquiry is limited. In **Union of India and others v. P.Gunasekaran 2015(2) SCC 610**, the Apex Court has held as under:-

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, re-appreciating even the evidence before the enquiry officer. The finding on Charge

no. 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 Article 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 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 Article 226/227 of the Constitution of India, the High Court shall not:

- (i). re-appreciate 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.

7. The aforesaid view has been upheld by the three judges Bench of the Supreme Court in **Central Industrial Security Force and others v. Abrar Ali (2017) 4 Supreme Court Cases 507**. It has been again reiterated in **Union of India and others v. Subrata Nath 2023(1) SLJ 97** as under:-

“28. We are unable to commend the approach of the learned Single Judge and the Division Bench. There was no good reason for the High Court to have entered the domain of the factual aspects relating to the evidence recorded before the Inquiry Officer. This was clearly an attempt to reappraise the evidence which is impermissible in exercise of powers of judicial review vested in the High Court under Article 226 of the Constitution of India. We are of the opinion that both, the learned Single Judge as well as the Division Bench, fell into an error by setting aside the order of dismissal from service imposed on the respondent by the Disciplinary Authority and upheld by the Appellate Authority.”

8. On the basis of the aforesaid guidelines as laid down by the Apex Court, if the case of the petitioner is examined, this Court finds that the arguments raised as above by the petitioner cannot be entertained by this Court as this Court is not sitting in appeal against the orders passed by the Disciplinary Authority and the Appellate Authority. The view taken by the Inquiry Officer and accepted by the Disciplinary Authority cannot be over turned merely because there can be a different way of looking at the evidence. The Inquiry Officer has proved the charges 1,2,3 and 6 against the

petitioner and partially proved charge no.7. It has also come on record that the appellant has refused to give her voice sample for matching the voice with the voice of the lady in the audio. All these aspects have been considered and a punishment of compulsory retirement has been passed, which, in the opinion of this Court, cannot be said to be unjustified and is commensurate with the allegations levelled and proved against the petitioner.

9. In view thereof, no interference in the impugned orders is warranted. Writ petition is dismissed.

(SANJEEV PRAKASH SHARMA)
JUDGE

01.08.2023
mamta

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