

CWP-4230-2003 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-4230-2003 (O&M)
Date of decision: 14.08.2024

TARA SINGH THROUGH HIS LEGAL REPRESENTATIVES
....PETITIONERS
Vs.
STATE OF PUNJAB AND ANOTHER ...RESPONDENTS

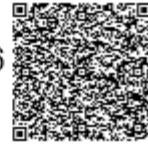
CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Suvir Sidhu, Advocate and
Mr. Mandeep Singla, Advocate
for the petitioners.

Mr. Gurpartap Singh Bhullar, AAG, Punjab.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 18.02.2003 (Annexure P-7) whereby petitioner was dismissed from service.
2. The petitioner worked with Armed Forces for 20 years and thereafter on 09.10.1981 joined Punjab Police. In 1996, he was shifted to Welfare Branch of Punjab Police. He was incharge of receipt of cash from borrower of Welfare Fund. As per procedure, installments used to be received by accounts branch from borrower and cash was deposited with a bank. An entry was made in cash book followed by Ledger. The folio number of cash book was required to be recorded in Ledger which is otherwise a normal accounting practice.



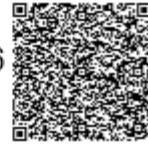
3. The petitioner during March' 1999 to November' 2000 collected a sum of Rs.2,69,380 from different police officials as their installments but did not deposit in bank. On getting information, the Competent Authority suspended him w.e.f. 01.06.2001 and he was issued charge-sheet on 20.08.2001. After conducting inquiry, the Competent Authority found him guilty of embezzlement. He came to be dismissed by impugned order.

4. Mr. Suvir Sidhu, Advocate confirms that petitioner, during the pendency of instant petition, has passed away and his LRs are on record. He further submits that punishment of dismissal from service was disproportionate to the alleged offence. There was delay in deposit of alleged amount, however, deposit was made prior to order of suspension.

5. Per contra, Mr. Gurpartap Singh Bhullar, AAG, Punjab submits that petitioner deposited alleged amount on 15.05.2001 and he was suspended on 01.06.2001 on the basis of complaint received from a police official. During the course of inquiry, it was found that proper entries were not made in cash book and Ledger, thus, it was established that petitioner embezzled the alleged amount. This Court cannot examine question of quantum of punishment. The petitioner was part of Punjab Police which is a disciplined organization.

6. I have heard counsel for the parties and with their able assistance perused the record.

7. It is settled proposition of law that 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 LiveLaw (SC) 998** while advertng 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.** The relevant extracts of the judgment read as :

“19. Laying down the broad parameters within which the High Court ought to exercise its powers under Article 226/227 of the Constitution of India and matters relating to disciplinary proceedings, a two Judge Bench of this Court in Union of India and Others v. P. Gunasekaran¹³ held thus :

“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, reappreciating even the evidence before the enquiry officer. The finding on Charge 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 Articles 226/227 of the Constitution of India, shall not



venture into reappreciation 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 Articles 226/227 of the Constitution of India, the High Court shall not:

- (i) reappreciate 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.”*

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22. *To sum up the legal position, being fact finding authorities, both the Disciplinary Authority and the Appellate Authority are vested with the exclusive power to examine the evidence forming part of the inquiry report. 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. However, in exercise of powers of judicial review, the High Court or for that matter, the Tribunal cannot ordinarily reappreciate the evidence to arrive at its own conclusion in respect of the penalty imposed unless and until the punishment imposed is so disproportionate to the offence that it would shock the conscience of the High Court/Tribunal or is found to be flawed for other reasons, as enumerated in P. Gunasekaran (supra). If the punishment imposed on the delinquent employee is such that shocks the conscience of the High Court or the Tribunal, then the Disciplinary/Appellate Authority may be called upon to re-consider the penalty imposed. Only in exceptional circumstances, which need to be mentioned, should the High Court/Tribunal decide to impose appropriate punishment by itself, on offering cogent reasons therefor.”*

8. From the perusal of record, it is evident that there was delay in deposit of installments recovered from different police officials. The alleged amount was collected during March’ 1999 to November’ 2000 whereas deposit was made on 15.05.2001. There was substantial gap between the period of collection and date of deposit. The petitioner had no authority to retain the alleged amount. There was manipulation in cash book and ledger. The petitioner was part of Punjab Police Force, thus, bound to maintain high standards of integrity. He is only claiming that punishment was disproportionate to alleged offence. The Disciplinary Authority is most Competent to determine quantum of



punishment. Court can interfere if there is patent irregularity or misreading of evidence or non appreciation of evidence or consideration of facts which are not supported by evidence. The case of petitioner is not covered in any of the exceptions carved out by Supreme Court in different judgments.

9. Dismissed.
10. Pending miscellaneous application(s), if any, shall also stand disposed of.

14.08.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

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