

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.17876 of 2001

Reserved on : 09.09.2024

Pronounced on : 24.09.2024

Ram Chander

.....Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. R. K. Malik, Senior Advocate with
Mr. Samrat Malik, Advocate for the petitioner.

Mr. R.D. Sharma, DAG, Haryana.

NAMIT KUMAR, J. (Oral)

1. The petitioner has invoked the jurisdiction of this Court by way of filing the instant writ petition under Article 226 of the Constitution of India seeking a writ of *certiorari* for quashing the order dated 30.08.2001 (Annexure P-5), whereby recovery of Rs.3,174/- was imposed and also order dated 06.09.2001 (Annexure P-10), whereby recovery of Rs.25,850/- was imposed and for issuance of directions to the respondents to release the conveyance allowance and the market rate of interest on the delayed payment of GPF.

2. Facts of the case are that the petitioner joined as 'Jr. Engineer' on 22.08.1964 and was promoted as 'Sub Divisional Officer' on 07.02.1993 and he joined, as such, on 08.02.1993. He retired from service on attaining the age of superannuation on 31.05.1997. While he was in service, on 29.05.1997, he was issued charge sheet regrading certain omission and commissions pertaining to the period from 01.04.1991 to 09.06.1992 and 23.10.1992 to 07.02.1993. He did not submit reply to the aforesaid charge-sheet and an Enquiry Officer was appointed

and the petitioner had associated with the enquiry proceedings. Although allegations were of amount of Rs.03,03,407/-, however, the Enquiry Officer proved the charges for recovery of Rs.3,174/- only, to which the petitioner submitted reply and vide order dated 30.08.2001, he was awarded punishment of recovery of Rs.3,174/-.

3. The petitioner was issued another charge-sheet dated 29.05.1997, two days prior to his retirement, on the allegations that one *Chowkidar* had driven the vehicle and due to his negligence, the accident had occurred and the department had to deposit a compensation of Rs.25,850/- and, therefore, why the said amount be not recovered from the petitioner. No reply was submitted by the petitioner due to surgery of his father and an Inquiry Officer was appointed. The petitioner associated with the enquiry proceedings. Since, the charge was not established by the Enquiry Officer, vide enquiry report dated 10.03.1999, thereafter, the disciplinary authority did not agree with the findings of the Enquiry Officer and the petitioner was issued show cause notice dated 23.09.2000 alongwith a copy of the disagreement note. The petitioner submitted reply dated 08.01.2001 to the aforesaid show cause notice and after considering the reply of the petitioner, punishment of recovery of Rs,25,850/- was imposed upon him. The aforesaid orders of punishment of recovery have been impugned in the present writ petition.

4. Further, it has been stated that the petitioner met with an accident on 30.06.1979 and his knee got fractured and he became orthopedically handicapped to the extent of 70 % and he can move only with the help of a stick, therefore, in terms of instructions dated 10.09.1982, issued by the Government of Haryana, he is entitled for conveyance allowance. The petitioner submitted representation for grant of conveyance allowance to the Engineer-in-Chief, Haryana, however, the same was not granted to the petitioner till his retirement.

5. It has also been stated that the petitioner retired from service on 31.05.1997 and his GPF amount of Rs.1,07,187/- was released by the respondents on 26.03.1998, however, no interest was paid to the petitioner from 31.11.1997 to 26.03.1998. Similarly, a sum of Rs.25,476/- was released to the petitioner on 09.01.2001 without interest on the delayed payment from 30.05.1998 to 09.01.2001. Similarly, another balance amount of GPF to the tune of Rs.12,745/- was released to the petitioner on 24.03.2000 without interest for the period from 31.05.1998 to 24.03.2000. The petitioner filed various representation(s) but to no avail. Hence, the present writ petition has been filed claiming interest on the delayed payment(s) of GPF amount(s), grant of conveyance allowance and for quashing the order(s) of punishment of recovery dated 30.08.2001 and 06.09.2001.

6. Separate written statements have been filed on behalf of Respondent Nos.1 to 4 and Respondent No.5 – Principal Accountant General (A&E), Haryana, Chandigarh.

In the written statement filed on behalf of Respondent Nos.1 to 4, the factual position has not been disputed with regard to the charge sheet(s) and issuance of punishment of recovery order(s), however, it has been stated that the punishment order(s) were passed after following the due procedure of law in terms of Haryana Civil Services (Punishment & Appeal) Rules, 1987. With regard to the conveyance allowance, it has been stated that the representation of the petitioner was considered by the competent authority and vide speaking order dated 02.07.2002, the same has been rejected.

In the written statement filed on behalf of Respondent No.5, it has been stated that the petitioner retired from service on 31.05.1997 and his 'GPF final payment case' was sent by the office of Executive Engineer, Provincial Divn.

No.2, PWD (B&R), Karnal, vide memo dated 19.01.1998 and whereas the same was required to be submitted to the office of Respondent No.5, six months in advance to the date of retirement, as per Note - 2 below Rule 13.31 of the Punjab Civil Services Rules (Vol. II) (as applicable to the State of Haryana). Despite that his GPF balance of Rs.1,07,187/- was authorised vide its office authority letter dated 30.03.1998 allowing interest up to the month of November, 1997 i.e. for a period of six months after the month in which the amount became payable as per Rule 13.13 (4) of the Punjab C.S.R. (Vol.II) (as applicable to the State of Haryana). It has further been stated that payment in respect of some GPF balance pertaining to the period 1970-71 to 1978-79 could not be made at the time of releasing final balance payment for want of proper details of missing credits, which were appearing against wrong Account Numbers in the GPF Schedules supplied by the Department/DDO and the correct details of these credits were awaited from the concerned DDOs/Departments. As and when, requisite details of these credits were received from the concerned DDOs/Departments, residual payments were released to the petitioner along with interest for a period of one year from the month of retirement as per Rule 13.13 (4) of the Punjab CSR (Vol.II). It has also been stated that the petitioner had joined the service with PWD (B&R), Punjab in the year 1964 and was allotted GPF A/c No.PWD/Pb/14524 by the Joint Office of A.G. (Punjab), Shimla in the year 1967. On re-organization of the States, he opted allocation to the State of Haryana and accordingly, he was allocated to the State of Haryana on 30.06.1970 and joined as 'Jr. Engineer' at District Ambala during the month of August, 1970. Thereafter, GPF A/c No. HR/PWD/11204 was given on his LPC received from the concerned department. Accordingly, deductions in the same account number were made by the aforesaid DDO and for this reason, some amount of GPF credits remained in

Suspense Account and after adjusting the same, the balance payment of GPF amount was paid to the petitioner with interest and nothing was due to be paid to the petitioner, as far as the GPF balance was concerned.

7. Learned Senior Counsel for the petitioner submits that the petitioner is entitled for grant of interest on the delayed GPF payment(s), as the same was delayed due to non-completion of necessary formalities by the respondents-department, and the said delay was not attributable to the petitioner. He further submits that both the orders of punishment of recovery dated 30.08.2001 and 06.09.2001 are non-speaking, as the replies filed to the show cause notice(s) has not been considered in its right perspective and in the second charge-sheet, the Inquiry Officer did not prove the charges, however, while supplying the disagreement note to the petitioner, the charges have been shown to be proved. He further submits that the petitioner submitted representation dated 09.08.1989 for grant of conveyance allowance w.e.f. 01.01.1981 @ Rs.50/-per month and Rs.75/- per month w.e.f. 01.01.1985, followed by subsequent representation dated 30.09.1997, in view of the Government Instructions dated 10.09.1982, however, his claim has wrongly been rejected by the respondents.

8. *Per contra*, learned State counsel for the respondents submits that the petitioner has been awarded punishment of recoveries of Rs.3,174/- and Rs.25,850/-, vide orders dated 30.08.2001 and 06.09.2001, respectively, after following the due procedure as the inquiry proceedings were initiated and completed strictly in terms of 'Haryana Civil Services (Punishment and Appeal) Rules, 1987'. He further submits that since the petitioner has submitted delayed representation(s) for grant of conveyance allowance, therefore, he could not be referred to the Chief Medical Officer, Kurukshetra, for assessing his disability, which is pre-requisite, for grant of conveyance allowance. He also submits that

balance payment of GPF amount has already been paid to the petitioner alongwith interest and nothing is due to be paid to the petitioner.

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

10. The issues involved in the present writ petition are being dealt with in following manner:-

Re: both charge sheet(s) dated 29.05.1997 :-

11. As discernible from the records, the punishment of recoveries of Rs.3,174/- and Rs.25,850/- has been imposed, vide orders dated 30.08.2001 and 06.09.2001, respectively, after following the due procedure strictly in accordance with 'Haryana Civil Services (Punishment and Appeal) Rules, 1987', so no fault can be found in the said orders imposing punishment of recoveries, therefore, claim of the petitioner for quashing the orders of punishment of recovery dated 30.01.2001 and 06.09.2001 cannot be accepted.

12. The Hon'ble Supreme Court in '**State of Andhra Pradesh and others verus S. Sree Rama Rao**', AIR 1963 Supreme Court 1723 has held that the High Court is not a Court of appeal which examines the merits of the findings recorded in the departmental inquiry and the power of judicial review is confined to; whether the inquiry was held by a competent authority; according to the procedure prescribed and whether rules of natural justice have been followed.

13. The Hon'ble Supreme Court in '**Union of India and another v. P. Gunasekaran**', 2015(1) SCT 5 while considering the scope of interference under Articles 226/227 of the Constitution of India has held as under: -

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“13. 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.*

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.

*14. In one of the earliest decisions in **State of Andhra Pradesh and others v. S. Sree Rama Rao, AIR 1963 Supreme Court 1723**, many of the above principles have been discussed and it has been concluded thus :*

"7. ... The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if

the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution."

15. In ***State of Andhra Pradesh and others v. Chitra Venkata Rao, (1975)2 SCC 557***, the principles have been further discussed at paragraph-21 to 24, which read as follows :

"21. The scope of Article 226 in dealing with departmental inquiries has come up before this Court. Two propositions were laid down by this Court in State of A.P. v. S. Sree Rama Rao. First, there is no warrant for the view that in considering whether a public officer is guilty of misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court must be applied. If that rule be not applied by a domestic tribunal of inquiry the High Court in a petition under Article 226 of the Constitution is not competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not a court of appeal under Article 226 over the decision of the authorities holding a departmental enquiry against a public servant. The Court is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Second, where there is some evidence which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court to review the evidence and to arrive at an independent finding on the evidence. The High Court may interfere where the departmental authorities

have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. The departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there is some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226.

22. Again, this Court in ***Railway Board, representing the Union of India, New Delhi v. Niranjana Singh*** said that the High Court does not interfere with the conclusion of the disciplinary authority unless the finding is not supported by any evidence or it can be said that no reasonable person could have reached such a finding. In *Niranjana Singh* case this Court held that the High Court exceeded its powers in interfering with the findings of the disciplinary authority on the charge that the respondent was instrumental in compelling the shut-down of an air compressor at about 8.15 a.m. on May 31, 1956. This Court said that the Enquiry Committee felt that the evidence of two persons that the respondent led a group of strikers and compelled them to close down their compressor could not be accepted at its face value. The General Manager did not agree with the Enquiry Committee on that point. The General Manager accepted the evidence. This Court said that it was open to the General Manager to do so and he was not bound by the conclusion reached by the committee. This Court held that the conclusion reached by the disciplinary authority

should prevail and the High Court should not have interfered with the conclusion.

*23. The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The Court exercises it not as an appellate court. The findings of fact reached by an inferior court or tribunal as a result of the appreciation of evidence are not reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by a tribunal, a writ can be issued if it is shown that in recording the said finding, the tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Again if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. A finding of fact recorded by the Tribunal cannot be challenged on the ground that the relevant and material evidence adduced before the Tribunal is insufficient or inadequate to sustain a finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal. See **Syed Yakoob v. K.S. Radhakrishnan**.*

24. The High Court in the present case assessed the entire evidence and came to its own conclusion. The High Court was not justified to do so. Apart from the aspect that the High Court does not correct a finding of fact on the ground that the evidence is not sufficient or adequate, the evidence in the present case which was considered by the Tribunal cannot be scanned by the High Court to justify the conclusion that there is no evidence which would justify the finding of the Tribunal that the respondent did not make the journey. The Tribunal gave reasons for its conclusions. It is not possible for the High

Court to say that no reasonable person could have arrived at these conclusions. The High Court reviewed the evidence, reassessed the evidence and then rejected the evidence as no evidence. That is precisely what the High Court in exercising jurisdiction to issue a writ of certiorari should not do."

*These principles have been succinctly summed-up by the living legend and centenarian Justice V. R. Krishna Iyer in **State of Haryana and another v. Rattan Singh, (1977) 2 SCC 491**. To quote the unparalleled and inimitable expressions:*

"4. in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and Administrative Tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act. For this proposition it is not necessary to cite decisions nor text books, although we have been taken through case-law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good. ..."

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14. To the similar effect is the judgment of the Hon’ble Supreme Court in **Central Industrial Security Force and others v. Abrar Ali, 2017(1) SCT 682** wherein it has been held as under: -

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“8. Contrary to findings of the Disciplinary Authority, the High

*Court accepted the version of the Respondent that he fell ill and was being treated by a local doctor without assigning any reasons. It was held by the Disciplinary Authority that the Unit had better medical facilities which could have been availed by the Respondent if he was really suffering from illness. It was further held that the delinquent did not produce any evidence of treatment by a local doctor. The High Court should not have entered into the arena of facts which tantamounts to re-appreciation of evidence. It is settled law that re-appreciation of evidence is not permissible in the exercise of jurisdiction under Article 226 of the Constitution of India. In **State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaiya reported in 2011(2) S.C.T. 782 : 2011(3) Recent Apex Judgments (R.A.J.) 28 : (2011) 4 SCC 584**, this Court held as follows:*

*"7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic inquiry, nor interfere on the ground that another view is possible on the material on record. If the inquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide **B.C. Chaturvedi v. Union of India, 1996(1) S.C.T. 617 : (1995) 6 SCC 749 : 1996 SCC (L&S) 80 : (1996) 32 ATC 44, Union of India v. G. Ganayutham, 1997(4) S.C.T. 214 :***

(1997) 7 SCC 463 : 1997 SCC (L&S) 1806, Bank of India v. Degala Suryanarayana, 1999(3) S.C.T. 669 : (1999) 5 SCC 762 : 1999 SCC (L&S) 1036 and High Court of Judicature at Bombay v. Shashikant S. Patil."

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15. The said view has recently been reiterated by the Hon’ble Supreme Court in *Deputy General Manager (Appellate Authority) and others v. Ajai Kumar Srivastava, 2021(1) SCT 285* and in the said judgment it has been held as under: -

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*“23. The power of judicial review in the matters of disciplinary inquiries, exercised by the departmental/appellate authorities discharged by constitutional Courts under Article 226 or Article 32 or Article 136 of the Constitution of India is circumscribed by limits of correcting errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice and it is not akin to adjudication of the case on merits as an appellate authority which has been earlier examined by this Court in **State of Tamil Nadu v. T.V. Venuaopalan, 1994(6) SCC 302** and later in **Government of T.N. and Another v. A. Rajapandian, 1995(1) SCC 216** and further examined by the three Judge Bench of this Court in **B.C. Chaturvedi v. Union of India and Others, 1995(6) SCC 749** wherein it has been held as under:-*

*"13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappreciate the evidence or the nature of punishment. In a disciplinary enquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In **Union of India v. H.C. Goel [(1964) 4 SCR 718]** this Court held at p. 728 that if the conclusion, upon consideration of the evidence*

reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued."

24. *It has been consistently followed in the later decision of this Court in **Himachal Pradesh State Electricity Board Limited v. Mahesh Dahiya**, 2017(1) SCC 768 and recently by the three Judge Bench of this Court in **Pravin Kumar v. Union of India and Others**, 2020(9) SCC 471.*

25. *It is thus settled that the power of judicial review, of the Constitutional Courts, is an evaluation of the decision-making process and not the merits of the decision itself. It is to ensure fairness in treatment and not to ensure fairness of conclusion. The Court/Tribunal may interfere in the proceedings held against the delinquent if it is, in any manner, inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached or where the conclusions upon consideration of the evidence reached by the disciplinary authority is perverse or suffers from patent error on the face of record or based on no evidence at all, a writ of certiorari could be issued. To sum up, the scope of judicial review cannot be extended to the examination of correctness or reasonableness of a decision of authority as a matter of fact.*

26. *When the disciplinary enquiry is conducted for the alleged misconduct against the public servant, the Court is to examine and determine: (i) whether the enquiry was held by the competent authority; (ii) whether rules of natural justice are complied with; (iii) whether the findings or conclusions are based on some evidence and authority has power and jurisdiction to reach finding of fact or conclusion.*

27. *It is well settled that where the enquiry officer is not the disciplinary authority, on receiving the report of enquiry, the disciplinary authority may or may not agree with the findings*

recorded by the former, in case of disagreement, the disciplinary authority has to record the reasons for disagreement and after affording an opportunity of hearing to the delinquent may record his own findings if the evidence available on record be sufficient for such exercise or else to remit the case to the enquiry officer for further enquiry.

28. It is true that strict rules of evidence are not applicable to departmental enquiry proceedings. However, the only requirement of law is that the allegation against the delinquent must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at a finding upholding the gravity of the charge against the delinquent employee. It is true that mere conjecture or surmises cannot sustain the finding of guilt even in the departmental enquiry proceedings.

29. The Constitutional Court while exercising its jurisdiction of judicial review under Article 226 or Article 136 of the Constitution would not interfere with the findings of fact arrived at in the departmental enquiry proceedings except in a case of malafides or perversity, i.e., where there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at that findings and so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained.”

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Re: Conveyance Allowance:-

16. It is the case of the petitioner that he is entitled for grant of conveyance allowance @ Rs.50/- per month w.e.f. 01.01.1981, which has been raised to Rs.75/- per month w.e.f. 01.01.1985 in view of the Government instructions dated 10.09.1982 and said claim has wrongly been rejected by the respondents on the ground of delay.

Vide order dated 02.07.2002, while rejecting the claim of the petitioner for grant of conveyance allowance, following reasons have been assigned:-

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“ i) An orthopedically handicapped employee will be eligible for conveyance allowance only if he or she has a minimum 40% permanent partial disability of both the upper and lower extremity deformities.

ii) The conveyance allowance will be admissible to the orthopedically handicapped employees on the recommendation of head of Orthopedics Department of a Govt. Civil Hospital.

iii) In the case of blind employees the allowances will be admissible on the recommendation of Head of Ophthalmological Departmental of a Government Civil Hospital.

iv) The allowance will not be admissible during leave (except casual leave), joining time or suspension.

It was also laid down that the Govt. employees concerned shall thus apply for the grant of conveyance allowance to the Head of Department and it shall be the responsibility of the Head of Department concerned to refer the case of the concerned employee with the appropriate medical authority for obtaining recommendations for grant of conveyance allowance as competent authority to accord sanction for grant of conveyance allowance rests with the Head of Department. Govt. further clarified vide instructions vide No. 5/2/84/IFRII dated 15-2-84 that the conveyance allowance may be granted with effect from the date the recommendation is received by Head of the Department.

In this case the request of Sh. Ram Chander was for grant of conveyance allowance for his incumbancy as J.E. therefore according to these instructions he was required to submit his request to the undersigned immediately after introduction of scheme for

grant of conveyance allowance viz. 10-9-82. Therefore, he failed to approach the appropriate authority in time as he informed the Deptt. regarding his handicapped-ness only on 9-8-89.

Sh. Ram Chander, J.E. (Retired as S.D.E) also did not follow the prescribed procedure as laid down by Govt. for obtaining recommendations from the medical authority. His case was required to be considered by C.M.O., Kurukshetra on hearing from the office of undersigned. But in this case no reference/request was made to the C.M.O., Kurukshetra to give his recommendations as such it is evident that Sh. Ram Chander managed a medical certificate of handicapped-ness at his own.

In view of above circumstances, Sh. Ram Chander, J.E. (SDE Retd.) failed to submit his claim within time and also lacks adoption of proper procedure as laid down in Govt. instructions dated 10-9-82, therefore at this belated stage his request is suffering from delay and laches being barred by time at this stage. Therefore his request for grant of conveyance allowance is devoid of any force and is hereby rejected. ”

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17. In ***State of T. N. v. Seshachalam, (2007) 10 SCC 137***, the Hon’ble Supreme Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus:-

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“... filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant.”

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18. To the same effect is the judgment of this Court in “*Suraj Mal vs The State of Haryana and others*”, 2015(1) SCT 31, wherein the petitioner was claiming the benefit of ACP scale, after completion of 10 years of regular service, revised pension and other retiral benefits, after nearly 05 years, after his retirement and the said claims were rejected on the ground of delay and latches.

19. This Court would have ignored the finding with regard to the delay in claiming conveyance allowance by the petitioner, however, in the second part of the reasoning it has categorically been stated that the employee concerned is required to apply for the said allowance to the Head of the Department, and the case of the concerned employee is required to be referred to the appropriate medical authority for obtaining recommendations for grant of conveyance allowance, and as per the Govt. Instructions dated 15.02.1984, the conveyance allowance may be granted with effect from the date, the recommendations are received by the Head of the Department, and the petitioner was required to submit his request to the Head of the Department for grant of conveyance allowance to enable him to obtain the recommendations from the competent medical authority i.e. Chief Medical Officer, Kurukshetra, but in this case no reference/request was ever made to the Chief Medical Officer, Kurukshetra, and the petitioner has managed the medical certificate of handicapped-ness at his own, therefore, claim of the petitioner for grant of conveyance allowance cannot be accepted.

Re: Interest on delay payment(s) of GPF:-

20. The petitioner has retired from the service on 31.05.1997 and the payment of GPF amount has been released to him in below-mentioned, three installments :-

Sr. No.	Date of Installment(s)	Amount of GPF
1.	26.03.1998	Rs.1,07,187/-
2.	09.01.2001	Rs.25,476/-
3.	24.03.2000	Rs.12,745/-

After going through the reasons stated by the Principal, Accountant General (A&E), Haryana, Chandigarh (Respondent No.5), this Court is of the opinion that the delay in releasing the said payments is not attributable to the petitioner. Although, it has been stated that for the first payment of GPF amount to the tune of Rs.1,07,187/- , interest for six months has been paid to the petitioner and with regard to subsequent two payments of GPF amount i.e. Rs.25,476/- and Rs.12,745/-, interest for one year has been paid, however, since the delay is not attributed to the petitioner, therefore, the petitioner is entitled for interest for the whole delayed period i.e. from the date of retirement till the date of actual payment(s) of GPF amount.

21. The Full Bench of this Court in '**A. S. Randhawa Supdg. Engineer (Retd.) v/s State Of Punjab and others' 1997 (3) SCT, 468** while dealing with the common question of law involved in the writ petitions that as to whether interest on account of delayed payment of pension and other retiral benefits to the Government Employee is maintainable, it was held that since there was no satisfactory explanation for the delay in disbursing the retiral benefits to the pensioners and they are, therefore, entitled to interest at the rate of 12% per annum for the period of delay on the amounts as paid to them. The relevant paras of the aforesaid Judgement are as under:-

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“ 16. In the result, we answer the question posed in the earlier part of the judgment in the affirmative and hold that a writ petition is

maintainable for claiming interest only on delayed payment of pension and other retiral benefits to which a retired government employee is entitled under the Civil Service Rules relating to pension and provident fund.

17. *Before concluding we are constrained to observe that it has been noticed that invariably in the matter of payment of pension and other retiral benefits to a retiring employee there have been delays and sometimes to an extent that is shocking. It must be realised by the concerned functionaries of the State at all levels that for a government servant, the only source of his subsistence after retirement is his pension and other retiral benefits and if they are not made available to him on time, he and his family are put under great mental tension making it difficult for them even to survive. Those dealing with the preparation of pension cases at different stages and with disbursement of retiral benefits must not forget that they too have to retire one day and will be looking up for the payment of those benefits and how will they feel if they are driven from pillar to post to get their dues and if hurdles are put and delay is caused in payment thereof. It is to save this harassment to the retired that the Rules require that the procedure to compute pension and retiral benefits should commence two years before the date of superannuation so that whatever be the apathy or the inefficiency of the concerned officials in working out the amounts, they will be able to complete the cases atleast in two years and pay the dues to the retirers. If in spite of these safeguards as provided in the Rules the working of the administrative officers at different levels high or low is so indifferent in the performance of their duties as enjoined on them it is but fair that those responsible for causing delays in the matter of payment of retiral benefits should be made personally liable for the payment of interest that may have to be paid to the retiring employee. The loss caused to the State exchequer by avoidable payment of interest must, therefore, be replenished by recovering the same from the erring*

officers/employees, the extent and proportion of which will be determined in each case by the Chief Secretary of the State.

18. In the cases before us there is no satisfactory explanation for the delay in disbursing the retiral benefits to the pensioners and they are, therefore, entitled to interest at the rate of 12 % per annum for the period of delay on the amounts as paid to them. The writ petitions are accordingly allowed and the respondents are directed to pay the interest as aforesaid within 3 months from the date of receipt of a copy of this order. The Chief Secretaries of the two State Governments of Punjab and Haryana are further directed to fix the responsibility of the erring officers/officials in each case pertaining to their State in regard to the delay Caused in the disbursement of retiral benefits to the petitioners and recover the amount of interest from them so that there is no loss caused to the State exchequer for their default. A copy of this judgment be sent to the Chief Secretaries of the States of Punjab and Haryana for information and necessary action.”

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22. In 'J.S. Cheema Vs. State of Haryana' : 2014(13) RCR (Civil) 355 this Court had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. The relevant paragraph of the said judgment is as under: -

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“ The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be

denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.”

xxx xxx xxx xxx

23. In view of the above, the claim of the petitioner for setting aside the impugned orders of punishment of recoveries dated 30.08.2001 and 06.09.2001 and for grant of conveyance allowance, is hereby rejected, however, his claim for grant of interest on the delayed GPF payment(s) is allowed, as the delay in releasing the said GPF payments, which were withheld by the respondents without any satisfactory and justifiable reasons, is not attributable to the petitioner. In view of the law laid down by the Full Bench of this Court in 'A.S. Randhawa Supdg. Engineer (Retd.) v/s State Of Punjab and others' and 'J.S. Cheema v/s State of Haryana' (Supra), the respondents are directed to grant applicable rate of interest on the GPF Payment(s) w.e.f. 01.06.1997 till the actual date of payment of GPF amount(s), after adjusting the amount of interest already paid to the petitioner.

Pending application(s), if any, shall also disposed of.

September 24, 2024
mkkoundal

(NAMIT KUMAR)
JUDGE

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