



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

CWP No. 9338 of 2024

Date of Decision: 29.08.2024

Shingara Singh

....Petitioner

VS.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

**Present: Mr. J.S.Dhaliwal, Advocate
for the petitioner**

Mr. Aman Dhir, DAG, 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 02.02.2024 whereby Appellate Authority has dismissed appeal against order dated 06.08.2018 whereby Senior Superintendent of Police had ordered to forfeit his one year service.

2. The petitioner is working as a Head Constable with Punjab Police. The jurisdictional SSP by impugned order dated 06.08.2018 imposed punishment of forfeiture of his one year service. The said order was preceded by departmental enquiry wherein it was established that he did not follow orders of his seniors and did not pick up one accused. The petitioner feeling aggrieved from order of punishment passed by SSP, preferred an



appeal before Director General of Police which was dismissed vide impugned order dated 02.02.2024.

3. Mr. J.S.Dhaliwal, Advocate submits that petitioner had always complied with instructions/orders of his seniors and allegations levelled against him were completely false and fabricated still he was subjected to punishment.

4. Per contra, Mr. Aman Dhir, DAG, Punjab submits that competent authority conducted enquiry and petitioner was granted opportunity to put forth his stand. In the enquiry, he was found guilty and accordingly, disciplinary authority imposed punishment of forfeiture of one year service.

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

6. It is a 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 adverting



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. Gunasekaran** 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, re-appreciating 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 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 Articles 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.”

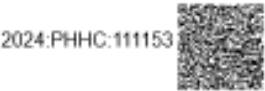
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22. To sum up the legal position, being fact finding authorities, both the Disciplinary Authority and the Appellate Authority are vested with the exclusive power to examine the evidence forming part of the inquiry



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 re-appreciate 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 therefore.”

7. Applying the law laid down by Hon'ble Supreme Court, this Court neither finds that penalty imposed by authorities is disproportionate to alleged offence nor finds any infirmity warranting interference of this Court Court. Moreover, from the perusal of record it comes out that neither there is allegation nor during the course of arguments there was averment that respondent authorities have not followed the procedure prescribed by law while conducting enquiry or authorities have imposed punishment which is disproportionate to alleged offence. The findings recorded by authorities are



purely findings of fact and there is neither jurisdictional error or patent illegality in the impugned order warranting interference of this Court.

- 8. The present petition sans merit and deserves to be dismissed.
- 9. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

29.08.2024
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	