



209

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-20805-2013

Date of Decision:23.05.2024

CHARAN SINGH

..... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Nilesh Bhardwaj, 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 01.03.2012 (Annexure P-6) whereby punishment of 5% cut in his pension has been imposed.

2. This Court finds that petitioner was subjected to punishment of 5% cut in his pension as during surprise raid conducted in the Jail where petitioner was posted as Assistant Superintendent Jails, certain objectionable articles were recovered. A joint trial was conducted and all the officers who were found guilty were punished.

3. It is a settled proposition of law that scope of interference at High Court level against departmental proceedings is very limited. High Court is not supposed to re-appreciate evidence led during the course of departmental enquiry. High Court while exercising its jurisdiction under



Article 226 of the Constitution of India can examine whether there is violation of any prescribed procedure or there was *mala fide* on the part of authorities or the official has been victimized.

A two-judge Bench of 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 enquiry, 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, 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.”

X X X X

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 reconsider 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.”

- 4. In the case in hand, the petitioner was posted as Assistant Superintendent, Jail and during raid, multiple objectionable articles were recovered. The respondent considering role of each delinquent has punished. The punishment of 5% cut of pension is neither arbitrary nor disproportionate to alleged offence.

5. In view of above referred judgment, considering the quantum of punishment and alleged offence, I find that the present petition is liable to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

23.05.2024
Ali

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>