



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

**CWP No.5593-1999(O&M)
Date of Decision: 02.04.2025**

Rabhbir Singh

....Petitioner

vs.

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Kanwarpal Singh Gill, Advocate for
Mr. Dhiraj Chawla, Advocate
for the petitioner

Mr. Raman Sharma, Addl. A.G., Haryana

Mr. C.R.Dahiya, Advocate
for respondents No. 3 and 4

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of:-

- i. Order dated 29.05.1995 (Annexure P-3) whereby he was dismissed from service; and
- ii. Order dated 19.12.1997 (Annexure P-4) whereby his appeal was dismissed.

2. The petitioner joined respondent-The Sonapat Central Cooperative Bank Limited as Secretary in 1976. He was issued charge sheet on 15.10.1993 alleging financial irregularities. On the basis of report of Enquiry Officer, he was issued show cause notice dated 04.10.1994 proposing dismissal from service. He came to be dismissed vide order dated



29.05.1995. He unsuccessfully preferred appeal before Appellate Authority. He preferred CWP No. 1120 of 1997 before this Court which was disposed of vide order dated 14.07.1997 with a direction to respondents to decide his appeal afresh. The respondents again dismissed his appeal vide order dated 19.12.1997. During the pendency of petition, the petitioner has passed away and his legal representatives are on record.

3. Mr. Kanwarpal Singh Gill, Advocate submits that petitioner was dismissed from service without any reason. There was no embezzlement on his part. His past service was not taken into consideration and harsh action of dismissal from service was taken.

4. Per contra, counsel for the respondents submit that petitioner during the proceedings accepted financial irregularities by depositing partial amount. The Enquiry Officer found him guilty qua multiple charges though few were dropped. Complete procedure was followed and thereafter he was dismissed from service. There is neither procedural nor legal infirmity in the impugned order.

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

6. 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 v. Subrata Nath, 2022 SCC OnLine SC 1617** while advertent 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, (2015) 2 SCC 610**. The relevant extracts of the judgment read as :-

“18. 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 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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21. 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. The Supreme Court has time and again reminded that High Court cannot examine factual position and disturb findings recorded by departmental authorities. The Court has further held that High Court cannot re-quantify quantum of punishment, however, if Court finds that punishment awarded is disproportionate to alleged offence, the Court may ask the authorities to re-consider quantum of punishment.

8. From the perusal of record, it is evident that petitioner was granted due opportunity to put forth his stand. The Enquiry Officer found him guilty qua many charges and he accepting his guilt deposited partial embezzled amount. The facts collectively indicate that there was no procedural or legal infirmity in the procedure adopted by respondents as well as in the impugned order.

9. In the wake of above discussion and findings, this Court does not find any ground to interfere with the impugned orders. Accordingly, the petition is hereby dismissed.

10. Pending Misc. application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

02.04.2025
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Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	