



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

**CWP-14535-2005 (O&M)
Date of Decision: 24.12.2025**

Jagmal Singh

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Tapan Kumar, Advocate
for the petitioner.

Ms. Rajni Gupta, Addl. A.G., Haryana.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of orders dated 09.10.2001, 16.01.2002 and 13.12.2002.

2. The petitioner in June' 2000 was posted as Head Constable in Dog Squad, CID Unit. In the intervening night of 19/20th June' 2000, a bitch namely Laika (hereinafter called as 'service animal') got missing. Said animal was in the custody of Constable Parmod Kumar, Kennel Man who informed the petitioner about loss of animal on the next day i.e. morning of 20.06.2000. The petitioner tried to find out the aforesaid service animal, however, failed. He informed to Inspector Bishan Dayal, CID Unit, Hisar. In this regard DDR was registered on 22.06.2000. Service animal was recovered on 20.07.2000 from a private man. A departmental inquiry was initiated against the petitioner. He was not found guilty for loss of service animal, however, was held guilty for not

informing his seniors. The Disciplinary Authority inflicted punishment of stoppage of five annual increments with permanent effect. He filed appeal and Appellate Authority reduced punishment from forfeiture of five increments to two increments.

3. Learned counsel for the petitioner submits that there was no lapse on the part of petitioner. In the inquiry, he was not found guilty for loss of aforesaid service animal. He duly informed his seniors and DDR was registered. Finally, service animal was recovered. The punishment awarded by respondent, in any case, was disproportionate to alleged offence.

4. *Per contra*, learned State counsel reiterates findings recorded by Authorities below and contends that there is no ground to interfere with impugned orders.

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

6. The Supreme Court time and again has held that in case Court finds that punishment awarded by authority is disproportionate to alleged misconduct, the Court should remand the matter to competent authority to reconsider quantum of punishment. As per principle of proportionality, punishment prescribed by legislation must be in commensurate to alleged offence. If punishment is disproportionate to alleged offence, it is violative of Article 14 of the Constitution of India.

7. In ***Om Kumar v. Union of India, (2001) 2 SCC 386***, a matter came up for hearing on account of an order of Supreme Court dated 4.5.2000 proposing to re-open the quantum of punishments imposed in departmental inquiries on certain officers of the Delhi

Development Authority who were connected with the land of the DDA allotted to M/s. Skipper Construction Co. It was proposed to consider imposition of higher degree of punishments in view of the roles of these officers in the said matter. The question posed before the court was whether the right punishments were awarded to the officers in accordance with well known principles of law or whether the punishments required any upward revision. Proportionality as a constitutional doctrine has been highlighted in as follows:

"30. On account of a Chapter on Fundamental Rights in Part III of our Constitution right from 1950, Indian Courts did not suffer from the disability similar to the one experienced by English Courts for declaring as unconstitutional legislation on the principle of proportionality or reading them in a manner consistent with the charter of rights. Ever since 1950, the principle of "proportionality" has indeed been applied vigorously to legislative (and administrative) action in India. While dealing with the validity of legislation infringing fundamental freedoms enumerated in Article 19(1) of the Constitution of India - such as freedom of speech and expression, freedom to assemble peaceably, freedom to form associations and unions, freedom to move freely throughout the territory of India, freedom to reside and settle in any part of India - this Court has occasion to consider whether the restrictions imposed by legislation were disproportionate to the situation and were not the least restrictive of the choices. The burden of proof to show that the restriction was reasonable lay on the State. "Reasonable restrictions" under Articles 19(2) to (6) could be imposed on these freedoms only by legislation and courts had occasion throughout to consider the proportionality of the restrictions. In numerous judgments of this Court, the extent to which "reasonable restrictions" could be imposed was considered. In Chintamanrao v.

State of M.P. [AIR 1951 SC 118: Mahajan, J. (as he then was) observed that "reasonable restrictions" which the State could impose on the fundamental rights "should not be arbitrary or of an excessive nature, beyond what is required in the interests of the public". "Reasonable" implied intelligent care and deliberation, that is, the choice of a course which reason dictated. Legislation which arbitrarily or excessively invaded the right could not be said to contain the quality of reasonableness unless it struck a proper balance between the rights guaranteed and the control permissible under Articles 19(2) to (6). Otherwise, it must be held to be wanting in that quality. Patanjali Sastri, C.J. in State of Madras v. V.G. Row [AIR 1952 SC 196], observed that the Court must keep in mind the "nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time". This principle of proportionality vis-a-vis legislation was referred to by Jeevan Reddy, J. in State of A.P. v. McDowell & Co. (1996) 3 SCC 709 recently. This level of scrutiny has been a common feature in the High Court and the Supreme Court in the last fifty years. Decided cases run into thousands. 31. Article 21 guarantees liberty and has also been subjected to principles of "proportionality". Provisions of the Criminal Procedure Code, 1974 and the Indian Penal Code came up for consideration in Bachan Singh v. State of Punjab [(1980) 2 SCC 684 the majority upholding the legislation. The dissenting judgment of Bhagwati, J. (see Bachan Singh v. State of Punjab (1982) 3 SCC 24 dealt elaborately with "proportionality" and held that the punishment provided by the statute was disproportionate. 32. So far as Article 14 is concerned, the courts in India examined whether the classification was based on intelligible differentia and whether the differentia had a reasonable nexus with the object of the legislation. Obviously, when

the courts considered the question whether the classification was based on intelligible differentia, the courts were examining the validity of the differences and the adequacy of the differences. This is again nothing but the principle of proportionality. There are also cases where legislation or rules have been struck down as being arbitrary in the sense of being unreasonable [see Air India v. Nergesh Meerza [(1981) 4 SCC 335 (SCC at pp. 372-373)]. But this latter aspect of striking down legislation only on the basis of "arbitrariness" has been doubted in State of A.P. v. McDowell and Co. (1996) 3 SCC 709."

8 In ***Bhagat Ram v. State of Himachal Pradesh, (1983) 2 SCC 442***, the Apex Court held that any penalty which is disproportionate to the gravity of misconduct would be violative of Article 14 of the Constitution of India. The relevant extracts of the judgment read as:

"15. ... It is equally true that the penalty imposed must be commensurate with the gravity of the misconduct, and that any penalty disproportionate to the gravity of the misconduct would be violative of Article 14 of the Constitution. ..."

9. In the case in hand, from the perusal of inquiry report, it is evident that petitioner was not found guilty for the loss of service animal. The incident occurred because there was marriage in the neighborhood and service animal got herself freed. No action was taken against Kennel man who was having custody of service animal. The petitioner timely informed his seniors. DDR in this regard was registered. He was not found guilty for loss of service animal. He was found guilty only for not informing his seniors at the earliest. The inquiry report shows that he duly informed his seniors on 21.06.2000 and DDR was registered on 22.06.2000. There was minor lapse on the part of petitioner, however,

punishment awarded was not proportionate to alleged misconduct.

10. In the normal course matter ought to be remanded to authorities to reconsider quantum of punishment. However, in this particular case, this Court does not find it appropriate to remand the matter because a period of more than two decades has already passed away. The authorities have passed impugned orders mechanically and there are all possibilities that remand would multiply the litigation. Thus, to cut short the litigation and considering the alleged misconduct, punishment is modified from forfeiture of two increments with permanent effect to forfeiture of two increments with temporary effect.

12. The respondent shall pay arrears arising on account of modification of awarded punishment within 6 months from today, failing which it would be liable to pay interest @ 7.5% per annum from the expiry of said period.

13. ***Disposed of.***

(JAGMOHAN BANSAL)
JUDGE

24.12.2025
Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No