



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

CWP-7102-2003 (O&M)
Date of Decision: 22.12.2025

Ram Phal

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- None 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 passed by Authorities whereby he was awarded punishment of stoppage of three annual increments with permanent effect.

2. The petitioner was subjected to departmental inquiry alleging that he illegally detained trucks with intent to extort money from drivers. He was found guilty by Inquiry Officer and thereafter subjected to punishment of forfeiture of three annual increments with permanent effect. He preferred appeal which was dismissed by Appellate Authority. He further preferred revision which was dismissed by Director General of Police (DGP).

3. A Constitution Bench in *Syed Yakoob Vs K.S. Radhakrishnan, AIR 1964 SC 477* and a two judge bench of the Hon'ble Supreme Court recently in *Central Council for Research in Ayurvedic*

Sciences and another Vs Bikartan Das and others 2023 SCC Online SC

996 have reminded us that there are two cardinal principles of law governing issuance of writ of certiorari under Article 226 of the Constitution of India i.e. (i) High Court does not exercise the powers of Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record; (ii) in a given case, even if some action or order challenged in the writ petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties. It is perfectly open for the writ court, exercising this flexible power to pass such orders as public interest dictates & equity projects. The High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal court of appeal which it is not.

4. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals. Error of jurisdiction includes order by inferior court or tribunal without jurisdiction or in excess of it or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to be heard to the party affected

by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be 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 the Tribunal, a writ of certiorari 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. Similarly, 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. In dealing with this category of cases, however, High Court must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned 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, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 of the Constitution to issue a writ of certiorari can be legitimately exercised.

5. From the perusal of record, it is evident that the impugned order was passed on the basis of inquiry report. The petitioner was given opportunity to put forth his defence. The petitioner was found guilty in the inquiry. Any order setting aside impugned order would amount to substitution of opinion of authorities which is impermissible. There is no factual or legal infirmities in the impugned order warranting interference.
6. In view of the above discussion and findings, the instant petition deserves to be dismissed and accordingly dismissed.
7. The petitioner is at liberty to move an appropriate application within three months from today, if cause survives.
8. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

22.12.2025
Prince Chawla

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