



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

**CWP-16963-2008 (O&M)
Date of Decision: 04.09.2025**

Kirpal Singh

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Shalender Mohan, Advocate
for the petitioner.

Mr. Suneel Ranga, DAG, 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 31.08.2007, 04.01.2008 and 07.06.2008.

2. The petitioner joined Haryana Police Force as Constable on 28.10.2000. He was implicated in FIR No.228 registered under Sections 395 and 397 of IPC at Police Station Sector-5, Panchkula. He was issued detail of chargesheet dated 25.07.2006 followed by chargesheet dated 29.05.2007 wherein it was alleged that he along with 10/12 companions armed with sharp-edged weapons attacked at a Liquor Vend in Sector-16, Panchkula. A departmental inquiry was conducted and he was found guilty. He was served show cause notice whereby he was called upon to show cause as to why he should not be awarded punishment of dismissal from service. He filed reply to show cause notice and Disciplinary Authority vide order dated 31.08.2007 ordered to dismiss him from

service. He unsuccessfully preferred appeal before Appellate Authority. He also filed revision before Director General of Police (**DGP**) which came to be dismissed.

3. Learned counsel representing the petitioner submits that petitioner was acquitted vide judgment dated 01.02.2014 passed by trial Court. As petitioner was acquitted by trial Court, he was entitled to reinstatement. There was no concrete evidence proving his presence at alleged incident. Despite being innocent, he was dismissed from service.

4. Mr. Suneel Ranga, DAG, Haryana submits that during the course of inquiry, it was duly established that petitioner was present at the time of alleged incident. Being member of disciplined force, he was not expected to be part of hooligans/miscreants. He caused loss of reputation to Police Force. Acquittal on the ground of non-cooperation of witnesses cannot lead to his reinstatement.

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 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, 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) 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.”*

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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 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 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.

7.1 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 04.05.2000 proposing to re-open the quantum of punishments imposed in departmental inquiry 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 punishment in view of the role of these officers in the said matter. The question posed before the court was whether the right punishment was 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 therein.

7.2 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. ...”

8. The sole ground to challenge findings of Departmental Authorities is acquittal in criminal case. This Court is of the considered opinion that if criminal proceedings are initiated besides departmental proceedings, the outcome of departmental proceedings, in view of the fact that both proceedings are independent and different yardstick is applied, cannot be ignored or brushed aside on account of dropping of criminal proceedings. In case of departmental proceedings, the department is not bound to prove its case beyond the reasonable doubt

because findings depend upon preponderance of probability. The petitioner was member of Disciplined Force. In the departmental proceedings, it was found that he was present at the time of alleged incident. He was part of team which attacked liquor vend employees. The witnesses turned hostile in the criminal proceedings which led to petitioner’s acquittal. He cannot take advantage of his acquittal which is based upon turning witnesses hostile. The Authorities have considered case of the petitioner and thereafter passed impugned punishment order. There is no factual or legal infirmity in the impugned order warranting interference. Court is not oblivious of the fact that scope of interference in such matters is very limited.

9. Accordingly, the instant petition is hereby dismissed.
10. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)

JUDGE

04.09.2025

Prince Chawla

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