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

CWP-13961-2017**Date of Decision: 22.09.2025**

Kheta Ram

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Shalender Mohan, Advocate,
Dr. Purshottam, Advocate and
Mr. Rajat Ahlawat, Advocate
for the petitioner.

Mr. Ravi Partap Singh, 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:

- (i) Show cause notice dated 24.04.2015;
- (ii) Inquiry report whereby charges were proved against him;
- (iii) Order dated 15.05.2015 whereby penalty of five future annual increments with permanent effect was imposed;
- (iv) Order dated 31.08.2015 whereby his appeal was dismissed;
and
- (v) Order dated 13.01.2016 whereby his revision petition was dismissed.

2. The petitioner joined Haryana Police Force as Constable on 30.08.1985. In 2014, he was posted as Assistant Sub Inspector (ASI). He

along with other police officials laid Naka at Bhakra Canal Bridge, Pakka Saheeda, District Sirsa. They signaled a car to stop. Satbir Singh son of Mittu Singh, resident of Saheeda deboarded the car and ran away from the spot along with key of the car. The officials searched the car and found 180 Kg poppy husk. For the alleged offence, FIR No.164 dated 21.06.2014 under Sections 15, 16, 61 and 85 of Narcotic Drugs and Psychotropic Substances Act, 1985 was registered at Police Station Kalanwali by petitioner. Satbir Singh filed anticipatory bail before this Court. Satbir Singh could not be arrested. The respondent on the basis of oral information of Deputy Superintendent of Police (**DSP**), Dabwali initiated departmental proceedings against the petitioner. He was issued chargesheet. An Enquiry Officer was appointed to examine prosecution witnesses as well as defence witnesses. The Enquiry Officer declared him guilty. The Disciplinary Authority issued him show cause notice proposing punishment. He filed reply to show cause notice. The Disciplinary Authority vide order dated 15.05.2015 awarded him punishment of forfeiture of five increments with permanent effect. He unsuccessfully preferred appeal before Appellate Authority as well as revision before Director General of Police (**DGP**).

3. Learned counsel representing the petitioner submits that there was no evidence on record disclosing that accused Satbir Singh succeeded to escape because of connivance on the part of petitioner. Six police officials were present on the spot. It is a case of no evidence still he was awarded major punishment of forfeiture of five increments with permanent effect.

4. *Per contra*, learned State counsel submits that there was

concrete information that Satbir Singh could not be arrested because of help extended by petitioner.

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

6. The petitioner is seeking setting aside of departmental punishment awarded by Disciplinary Authority and upheld by Higher Authorities. 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 SCC OnLine SC 1617*** while advertng to 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.

7. 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.

8. 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.

9. In the instant case, the enquiry was conducted wherein many witnesses from both sides were examined. Prosecution Witness No.3 was present at the time of alleged incident. He disclosed that naka was laid and car was stopped. He further deposed that Satbir Singh succeeded to run away from the spot. He also confirmed that his colleagues were known to Satbir Singh. The petitioner in his support examined EHC Om Parkash, EASI Om Parkash, EASI Rawal Singh and EASI Amrik Singh. All the defence witnesses deposed in favour of the petitioner. They categorically deposed that they were present at the time of alleged incident. Satbir Singh was known to them because he was a habitual offender and many cases were pending against him. The Disciplinary Authority vide order dated 15.05.2015 awarded punishment of forfeiture of five increments with permanent effect holding the petitioner guilty for extending help to accused Satbir Singh. The findings recorded by Disciplinary Authority are reproduced as below:

“From the perusal of statements of PWs and other record available in this departmental enquiry it is found that while he was posted as I/C PP Singhapura. On 21.06.14 on recovery of 180 Kg. Poppy Husk from Verna Car No. CH-01-AQ-2732 a case FIR No. 164 dated 21.06.14 u/s 15/16 NDPS Act was registered in P.S. Kalanwali by him, accused Satbir Singh S/ Mithu Singh R/o Pakka Shahidan succeeded to escape from there. The by name accused Satbir Singh got interim bail from Hon'ble Punjab & Haryana High Court and Hon'ble Court directed the accused to join the investigation. In compliance with

Hon'ble Court order accused joined the investigation but he did not cooperate in the investigation of this case. Upon which Hon'ble Court was requested for the cancellation of interim bail, Hon'ble Court ordered the accused to join the investigation prior to 23.09.14 and interim orders were cancelled. However, the accused Satbir Singh has not been arrested so far in this case. DSP/Dabwali received information from the reliable sources that ASI Kheta Ram helped the accused Satbir Singh to provide undue benefit, due to which accused was not arrested prior to his approaching to Hon'ble Court by him. In this way by providing help to a accused involved in the smuggling of Narcotics ASI Kheta Ram has shown gravest act of misconduct on his part.

In view of the above discussion, it is clear that the charges leveled against ASI Kheta Ram No. 203/SRS are proved on the file in this departmental enquiry and for the misconduct committed by him, he deserves severe punishment. Keeping in view the totality of facts and circumstances of this case I am of the considered view that punishment of stoppage of five future annual increments with permanent effect will meet the ends of justice in this case. I, therefore, order punishment of stoppage of five future annual increments with permanent effect in respect of ASI Kheta Ram No. 203/SRS. Order be booked accordingly and a copy of the same be delivered to him free of cost.”

10. From the perusal of findings recorded by Disciplinary Authority, it comes out that petitioner was subjected to departmental enquiry alleging that accused Satbir Singh was helped by petitioner. The respondent conducted enquiry and during enquiry, many witnesses were

examined. There was not even single witness who could prove or categorically depose that on account of help of petitioner, accused Satbir Singh could not be arrested.

11. It appears that accused Satbir Singh could not be arrested despite cancellation of interim order by this Court. The respondent decided to hold someone guilty for failure to arrest Satbir Singh. DSP, Dabwali reported that as per his information, ASI Kheta Ram (petitioner) has helped accused Satbir Singh. DSP was examined as Prosecution Witness No.4. He simply confirmed that he had sent source report against petitioner. On cross-examination, he confirmed that he had not received any written complaint. There was no evidence on record proving that accused Satbir Singh could not be arrested on account of help of petitioner. In the absence of evidence, petitioner could not be held guilty for major punishment. It is settled law that in the departmental proceedings, the Authorities are not required to prove guilt beyond reasonable doubt, however, there should be some evidence connecting the delinquent with alleged default. The yardstick of proof in departmental proceedings is preponderance of probability. The respondent in the departmental proceedings has miserably failed to connect the petitioner with allegations made in the chargesheet. He could not be held guilty just because accused escaped from the spot and later on could not be arrested till the filing of anticipatory bail application before this Court. There was a team of six police officials in whose presence Satbir Singh escaped from the spot. There is further no oral or documentary evidence on record proving that petitioner helped accused in absconding. It was not duty of

the petitioner to arrest accused. It appears that respondent has attributed entire responsibility to petitioner and held him guilty.

12. In the wake of above discussion and findings, this Court is of the considered opinion that impugned orders deserve to be set aside and accordingly set aside.

13. *Allowed.*

(JAGMOHAN BANSAL)
JUDGE

22.09.2025
Prince Chawla

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