



CWP-15735-2025

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

CWP-15735-2025**Date of Decision: 01.08.2025****ASI SHARMILA**

..... Petitioner

*Versus***STATE OF HARYANA AND ORS**

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. U.K. Agnihotri, Advocate with
Mr. Anuj Y. Attri, Advocate for the petitioner.

Ms. Rajni Gupta, Addl. AG, 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) Order dated 10.04.2023 (Annexure P-9) whereby she was awarded punishment of stoppage of one annual increment with permanent effect;

(ii) Order dated 26.05.2023 (Annexure P-10) whereby her appeal was dismissed; and

(iii) Order 21.07.2023 (Annexure P-12) whereby her revision was also dismissed.

2. The petitioner joined Haryana Police Force as Constable on 17.09.2003. She was promoted as ASI in 2016. An FIR No.424 dated 22.09.2022, under Section 376 of IPC, 1860 was registered at Police Station Sadar Yamuna Nagar. The petitioner was Investigating Officer in the aforesaid FIR. The respondent initiated an inquiry against her alleging lapse in the investigation of aforesaid FIR. The Enquiry Officer held him



guilty. The respondent issued show cause notice dated 16.03.2023. The petitioner filed reply to said show cause notice. The respondent vide order dated 10.04.2023 awarded punishment of stoppage of one annual increment with permanent effect. She unsuccessfully preferred appeal as well as revision before Higher Authorities.

3. Mr. U.K. Agnihotri, Advocate for the petitioner submits that allegations against the petitioner were as vague as could be. The respondent without appreciating act and conduct of the petitioner has awarded punishment of forfeiture of one increment with permanent effect.

4. The petitioner has approached this Court after two years from the date of passing last order on 21.07.2023 passed by DGP, Haryana. There is no plausible explanation for delay of two years in approaching this Court.

5. 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 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, (2015) 2 SCC 610***. 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.”

6. A Constitution Bench in ***Syed Yakooob 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.

7. 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 Art. 226 to issue a writ of certiorari can be legitimately exercised.

8. In the case in hand, the Disciplinary Authority awarded punishment of stoppage of one annual increment with permanent effect. The petitioner preferred an appeal which was dismissed. The relevant extracts of order dated 26.05.2023 passed by the Appellate Authority are reproduced as below:

*“I have carefully gone through the appeal, departmental enquiry file, enquiry report and other relevant documents available on file. I have also heard the appellant patiently on 24.05.2023 in my office. During the personal hearing the appellant did not clarify her negligence in any sense, which was committed by her in the investigation of case FIR No. 424 dated 22.09.2022 U/s 376 IPC PS Sadar Yamunanagar as an investigation officer. I have also noticed that the appellant was found guilty in the departmental enquiry, which was conducted as per laid down rules and set procedure. **Hence in view of all the above relevant facts/circumstances available, the appeal of the appellant is rejected being devoid of merit.**”*

9. The petitioner preferred revision which came to be dismissed. The relevant extracts of order dated 21.07.2023 passed by DGP, Haryana are reproduced as below:

“Whereas, the revisionist was heard in person through webex video conferencing on 10.07.2023. During the course of hearing, the revisionist pleaded for exoneration. I have carefully examined the revision petition, departmental enquiry file and orders passed by the Punishing and Appellate Authority. The



departmental enquiry has been conducted in accordance with laid down procedure and has no legal infirmity in it. Charges against the revisionist stand proved which are of serious nature. The revisionist failed to perform her duty diligently as Investigating Officer while conducting investigation in a heinous crime. I have perused service record of the revisionist. She is habitual of committing misconduct and her service record is chequered. Moreover, punishment inflicted is commensurate to the misconduct. There is no scope to interfere with the orders passed by the Punishing and Appellate Authority. Hence, the revision petition is rejected being devoid of merit.”

10. The petitioner was found guilty by Enquiry Officer. She was issued show cause notice proposing punishment of reduction in rank. The Disciplinary Authority taking lenient view, considering past record and length of service of the petitioner awarded punishment of forfeiture of one annual increment with permanent effect. The authorities duly followed prescribed procedure. The Authorities have recorded factual finding and there is no material irregularity or infirmity in those findings warranting interference.

11. In the wake of above discussion and findings, this Court is of the considered opinion that the instant petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

01.08.2025
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No