



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

CWP-22966-2015

Date of Decision: 11.08.2025

Mewa Singh

...Petitioner

Versus

State Of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

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

Mr. Ravi Partap Singh, DAG, Haryana.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking aside of:-

- (i) Show cause notice dated 10.03.2015;
- (ii) Order dated 29.04.2015 whereby he was awarded punishment of forfeiture of two increments with permanent effect; and
- (iii) Order dated 26.08.2015 whereby revision filed by the petitioner was dismissed.

2. The petitioner joined Haryana Police Force as Constable on 12.09.1982. He was promoted as ASI in 2009. The respondent initiated departmental proceedings against him in September' 2010 alleging that he has accepted bribe of Rs.24,000/- from accused Nasir son of Nazir in FIR No.116 of 2009 registered under Section 4B/8 of Cow Slaughtering Act, and Sections 336 and 429 of IPC at Police Station Chhachhrauli for

not giving beating during remand. On the basis of report of Inquiry Officer, Superintendent of Police (SP), Yamuna Nagar awarded him punishment of forfeiture of two annual increments with permanent effect vide order dated 21.10.2010. He unsuccessfully preferred appeal before Appellate Authority. He further preferred revision before Director General of Police (DGP) who vide order dated 22.07.2011 remanded the matter back to Disciplinary Authority with a direction to proceed after taking permission from District Magistrate under Rule 16.38 of the Punjab Police Rules, 1934 (in short 'PPR'). The jurisdictional SP sought approval of District Magistrate under Rule 16.38 of PPR and conducted fresh inquiry. The petitioner was exonerated by Inquiry Officer. The Superintendent of Police, Yamuna Nagar vide order dated 15.06.2012 accepted report of the Inquiry Officer. The petitioner, at this stage, started raising demand of his two increments which were forfeited. The respondent issued show cause notice dated 10.03.2015 calling upon the petitioner to show cause as to why order passed by Superintendent of Police, Yamuna Nagar should not be reviewed in terms of Rule 16.28 of PPR. The petitioner filed reply to said show cause notice. The respondent rejected submissions of the petitioner and awarded him punishment of stoppage of two future annual increments with permanent effect vide order dated 29.04.2015. He unsuccessfully preferred mercy appeal before DGP. He further preferred petition before State Government which also came to be dismissed.

3. Learned counsel representing the petitioner submits that in the absence of limitation period prescribed under Rule 16.28 of PPR, the authority was bound to issue show cause notice within reasonable period

of limitation. In the instant case, show cause notice was issued after three years from the date of passing order by Disciplinary Authority, thus, all the proceedings are bad in the eye of law. The petitioner was found innocent by Inquiry Officer and Disciplinary Authority correctly accepted his report.

4. *Per contra*, Mr. Ravi Partap Singh, DAG, Haryana submits that it is factually correct that under Rule 16.28 of PPR no limitation has been prescribed. In the instant case, power has been exercised within three years from the date of order passed by Disciplinary Authority, thus, it cannot be called as beyond reasonable period of limitation. There was misappreciation of evidence on record. In the first inquiry, the petitioner was found guilty and his appeal was also dismissed by Appellate Authority.

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

6. From the perusal of record, it is evident that Disciplinary Authority accepted report of Inquiry Officer vide order dated 15.06.2012. The Reviewing Authority issued notice under Rule 16.28 of PPR on 10.03.2015. The petitioner filed reply to said notice and final order was passed on 29.04.2015. It means, not only show cause notice was issued within three years from the date of order passed by Disciplinary Authority but also final order was passed within three years. A period of three years by no stretch of imagination be called unreasonable period of limitation. It is settled law that in the absence of specific period prescribed in the Act/Rules, reasonable period has to be determined on the basis of facts and circumstances of each case. In the instant case, notice was issued

within three years and order was also passed within three years, thus, it cannot be held that power was exercised beyond reasonable period of limitation.

7. 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 advertizing 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***.

8. 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 mold 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.

9. 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.

10. In the case in hand, petitioner was initially found guilty of demand of bribe. He was awarded punishment by Disciplinary Authority. Appeal of petitioner was dismissed by Appellate Authority. DGP remanded matter back to Disciplinary Authority on technical grounds. At this stage, everything changed and Disciplinary Authority read the evidence differently and exonerated the petitioner. The Reviewing Authority correctly reviewed order of SP and passed reasonable order of stoppage of two increments with permanent effect. The mercy petition came to be dismissed by DGP as well as by State Government. There is no infirmity in impugned order warranting interference.

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

(JAGMOHAN BANSAL)
JUDGE

11.08.2025
Prince Chawla

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