



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

CWP-22118-2016 (O&M)
Date of Decision: 01.09.2025

Vinod Kumar

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Ankur Kaushik, Advocate for
 Mr. Jangvir Singh Hooda, Advocate
 for the petitioner.

Mr. Ashok Kumar Khubbar, 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:

(i) Order dated 08.07.2014 whereby Superintendent of Police (**SP**) awarded him punishment of stoppage of two future annual increments with temporary effect;

(ii) Order dated 06.01.2015 whereby Inspector General of Police, South Range, Rewari (**IGP**) rejected his appeal;

(iii) Order dated 21.04.2015 whereby Director General of Police (**DGP**) rejected his revision petition; and

(iv) Order dated 04.07.2016 whereby DGP rejected his review after complying order of Additional Chief Secretary to Government of Haryana.

2. The petitioner joined police force as Constable on

21.08.1982. He from time to time was promoted. He was promoted as Assistant Sub Inspector (**ASI**). The respondents initiated departmental inquiry against him in 2013 alleging that he has invoked Section 304 A IPC in FIR No.460 dated 11.11.2012 registered under Sections 279, 337 and 304 A of IPC and Sections 61, 1 and 14 of Excise Act, 1914 at Police Station Sadar Palwal whereas it should be Section 304 IPC. The Inquiry Officer found him guilty. The Disciplinary Authority awarded him punishment of stoppage of two future annual increments with temporary effect. He filed appeal before Inspector General of Police, South Range, Rewari who dismissed his appeal vide order dated 06.01.2015. He preferred revision which came to be dismissed by DGP vide order dated 21.04.2015. He preferred mercy petition before DGP, Haryana who dismissed the same vide order dated 04.07.2016.

3. Learned counsel representing the petitioner submits that petitioner was subjected to punishment without reasons. He had discharged his duties diligently. There was no lapse on his part still he was subjected to punishment. Departmental Authority has imposed penalty in arbitrary and unreasonable manner.

4. 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 advertent 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***.

5. 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.

6. 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.

7. In the case in hand, petitioner was awarded punishment by Disciplinary Authority. Appeals of petitioner were dismissed by Higher Authorities. Additional Chief Secretary while hearing his mercy petition remanded the matter back to DGP to pass speaking order. The DGP granted him opportunity of personal hearing and did not find force in his contentions. The DGP has that held minimization of crime is a very serious misconduct which cannot be condoned. The DGP correctly considered the order of SP and upheld punishment of forfeiture of two annual increments with temporary effect. There is no infirmity in the impugned orders warranting interference.

8. 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.
9. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)

JUDGE

01.09.2025

Prince Chawla

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