



126

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

CWP-19876-2025

Date of Decision: 17.07.2025

ANIL KUMAR

..... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Amrit Paul Nahar, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 26.11.2024 (Annexure P-9) whereby appeal filed against order dated 03.08.2023 has been dismissed. He is further seeking counting of one year of forfeited service towards annual increment and consequential benefits.

2. The petitioner joined 3rd IRB, Ludhiana in 2020. In April' 2021, he was posted as Guard at Axis Bank, Chandigarh. A theft took place in the said Bank on 11.04.2021. An FIR No.60 dated 11.04.2021, under Sections 457, 381 and 411 of IPC at Police Station South, Sector 34, Chandigarh was registered. The respondent initiated a departmental enquiry against the petitioner. The Enquiry Officer in his report dated 16.06.2021 found him guilty of negligence and laxity in duty. He was served show cause notice dated 18.06.2021 calling upon to show cause as



to why punishment should not be awarded. He filed reply to show cause notice. The respondent, vide order dated 23.06.2021, awarded punishment of forfeiture of three years service and ordered to include his suspension period as suspension. The petitioner preferred an appeal before DIG who vide order dated 13.12.2021 substituted punishment by forfeiture of one year service. The petitioner filed another appeal which came to be dismissed vide order dated 03.08.2023 passed by DGP, Punjab. He further preferred mercy petition before Government which came to be dismissed vide order dated 26.11.2024 passed by Secretary, Home Affairs Department, Punjab. The conclusion drawn by Enquiry Officer reads as:

“From the inquiry conducted by me so far, and from the evidence, statement of witnesses, complaint, secret investigation and the perusal of entire departmental investigation file, it is found that the duty of Constable Anil Kumar No. 3/431 (suspended) was at Axis Bank Sector-34-Chandigarh, and that on the midnight of 10/11.04.2021, the private security guard Sunil Kumar engaged by this bank, had stolen and taken away the cash amount of Rs. 04 Crores 04 lakhs from the bank, regarding which, accordingly a case FIR No.0060/2021 dated 11.04.2021 was registered at police station South Sector, Chandigarh. Although the accused has been arrested and the cash has been recovered during the investigation, but of course the crime has taken place only due of the negligence of this employee. If this employee had done his duty smartly and the constable Anil Kumar No. 3/431 had done his duty smartly then Security Guard Sunil Kumar, engaged by the bank would not have stolen away the cash from the bank. But this employee has given evidence of negligence and laxity in his duty by not performing the important duty of bank security as per bank security duty



rules and the instructions given by the senior officers from time to time. Due to which the image of the police department has been tarnished. Hence, by doing so, the discipline and rules of the Departmental Police have been grossly violated, which is highly condemnable and punishable.

Therefore, the charges against constable Anil Kumar No. 3/431 (suspended) specified in the charge sheet dated 10/11.04.2021 regarding non-performance of duty and performing neglectful duty in the midnight at Axis Bank Sector 34-A, Chandigarh are proved.”

3. The Disciplinary Authority, after issuing show cause notice, passed order of forfeiture of three years service. The Appellate Authority taking a lenient view reduced the quantum of punishment.

4. 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.

4.1 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.

4.2 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. ...”

5. From the perusal of record, this Court has come to a conclusion that there is no procedural infirmity or otherwise illegality in the impugned orders warranting interference. The authorities have recorded categoric findings with regard to act and conduct of the petitioner. This Court cannot substitute opinion of authorities by its opinion. This Court cannot sit over opinion of authorities as appellate Court.

6. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

17.07.2025
Ali

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