



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

CWP-20955-2025

Date of Decision: 24.07.2025

PradeepPetitioner(s)

Versus

State of Haryana and othersRespondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Rahul Sharma-1, Advocate,
for the petitioner.

Ms. Rajni Gupta, Addl. A.G., Haryana.

JAGMOHAN BANSAL, J. (Oral)

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

- (i) order dated 18.10.2023 (Annexure P-3);
- (ii) order dated 21.03.2024 (Annexure P-5); and
- (iii) order dated 22.07.2024 (Annexure P-7) whereby he has been awarded punishment of stoppage of three future annual increments with permanent effect.

2. The petitioner joined Haryana Police Force as Constable on 27.06.2017. In 2022, he was posted as Assistant *Moharrir* Head Constable (Asstt. MHC) at P.S. Sadar Sohna, Gurugram. Ashok Kumar s/o Bijender in 2014 had deposited one firearm at said police station. In 2022, the said firearm was released to Ashok Kumar who committed



offence punishable under Section 307 IPC using aforesaid firearm. FIR No.158 dated 06.10.2022 was registered against him under Sections 307, 37 IPC and Section 25(1-B) of Arms Act at P.S. Sadar Sohna, District Gurugram. Apart from said FIR, untraced Report No.32 dated 11.10.2022 was also registered. Ashok Kumar during the course of investigation disclosed that firearm was handed over to him by petitioner. The respondent on account of misconduct on the part of petitioner initiated departmental inquiry. The Inquiry Officer found him guilty and submitted his report to Disciplinary Authority which issued show cause notice calling upon the petitioner to show cause as to why punishment of forfeiture of 4 future annual increments with permanent effect should not be awarded to him. The petitioner filed reply to show cause notice. The Disciplinary Authority disagreeing with submissions of petitioner passed order dated 18.10.2023 whereby petitioner was awarded punishment of stoppage of 4 annual future increments with permanent effect. The petitioner preferred an appeal before Appellate Authority which came up for consideration before Commissioner of Police, Gurugram. The Appellate Authority substituted punishment of stoppage of 4 future annual increments with permanent effect for stoppage of 3 future annual increments with permanent effect. The petitioner unsuccessfully preferred revision before DGP, Haryana.

3. Mr. Rahul Sharma, learned counsel for the petitioner submits that petitioner was on leave on the date alleged weapon was released to Ashok Kumar. The petitioner was not granted opportunity to put forth his stand against report of Inquiry Officer whereas he was issued show cause notice proposing punishment. The action of respondent was



contrary to law laid down by this Court in ***Rohtash vs. State of Haryana and others, CWP-17492-2018***.

4. I have heard the arguments and perused the record.

5. The petitioner was subjected to punishment by Disciplinary Authority. He preferred an appeal before Appellate Authority which reduced quantum of punishment. The Revisionary Authority has rejected revision application of the petitioner. Said authority has noted facts and thereafter returned findings. The relevant extracts of order dated 22.07.2024 passed by Revisionary Authority are reproduced as below:-

“Whereas, the revisionist was heard in person through webex video conferencing on 09.07.2024. During the course of hearing, the revisionist submitted that he was on leave with effect from 07.01.2022 to 13.01.2022, hence, was not at fault. Further, the revisionist pleaded for exoneration. I have carefully examined all relevant documents le, revision petition submitted by the revisionist, 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, Accused Ashok in FIR No.158 dated 06.10.2022 had clearly deposed before the enquiry officer that on 08.01.2022, he had taken his weapon from the revisionist with acknowledgment. Further, enquiry officer in his findings also concluded that weapon of accused Ashok was issued on a license of Nagaland state Authority which was deposited in Police Station-Sadar Sohna, Gurugram and it was not to be given back



to its owner, however, the weapon was handed over and its receipt was affixed with RC No. 101 dated 24.09.2019 instead of concerned RC No. 229 dated 19.06.2014 Intentionally to conceal receipt in connivance with the accused. Thus, the enquiry officer found the revisionist and his co-defaulter ESI Dalbir Singh careless towards their duty. I am of the considered view that the revisionist deserves punishment for the misconduct committed by him. Although, the revisionist had been shown on leave, there is no reason for the accused of making statement before enquiry officer that he has taken his weapon from the revisionist. Thus, the revisionist handed over weapon to Ashok while remaining on leave. Further, punishment inflicted upon the revisionist is commensurate to the misconduct. Hence, there is no ground to interfere with order passed by the Punishing and Appellate Authority. Revision Petition is therefore dismissed being devoid of merit.”

6. 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 v. 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 :-

“18. 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) re-appreciate 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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21. 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 re-appreciate 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.”

7. 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.

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 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.

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. The petitioner is claiming that respondent was bound to supply inquiry report prior to issuing show cause notice so that petitioner could put forth his stand against findings of Inquiry Officer. The petitioner is relying upon judgment of this Court in **Rohtash (Supra)**.

11. This Court does not find that there was violation of principles of natural justice on the part of respondents. The procedure in departmental inquiry has been prescribed under Rule 16.24 of Punjab Police Rules, 1934 as made applicable to State of Haryana (in short 'the 1934 Rules'). Clause (vii) of Rule 16.24(1) of 1934 Rules adverts to situation arising post conclusion of inquiry. The petitioner was supplied copy of inquiry report, issued show cause notice, granted opportunity to file reply. He was also personally heard by Disciplinary, Appellate and Revisionary authority. The said Rule is reproduced as below:-

“16.24. Procedure in departmental enquiries.-(1)

The following procedure shall be followed in departmental enquiries –

(i) The police officer accused of misconduct shall be brought before an officer empowered to punish him, or such superior officer as the Superintendent may direct to conduct the enquiry. That officer shall record and read out to the accused officer a statement summarizing the alleged misconduct in such a way as to give full notice of the circumstances in regard to which evidence is to be recorded. A copy of the statement will also be supplied to the accused officer free of charge.

(ii) If the accused police officer at this stage admits the misconduct alleged against him, the officer conducting the enquiry may proceed forthwith to frame a charge, record the accused officer's plea and any statement he may wish to make in extenuation and to record a final order, if it is within his power to do so, or a finding to be forwarded to an officer empowered to decide the case. When the allegations are



such as can form the basis of a criminal charge, the Superintendent shall decide at this stage, whether the accused shall be tried departmentally first and judicially thereafter.

(iii) If the accused police officer does not admit the misconduct, the officer conducting the enquiry shall proceed to record such evidence, oral and documentary, in proof of the accusation, as is available and necessary to support the charge. Whenever possible, witnesses shall be examined direct, and in the presence of the accused, who shall be given opportunity to take notes of their statements and cross-examine them. The officer conducting the enquiry is empowered, however, to bring on to the record the statement of any witness whose presence cannot, in the opinion of such officer, be procured without undue delay and expense or inconvenience, if he considers such statement necessary, and provided that it has been recorded and attested by a police officer superior in rank to the accused officer or by a magistrate, and is signed by the person making it. This statement shall also be read out to the accused officer and he shall be given an opportunity to take notes. The accused shall be bound to answer any questions which the enquiring officer may see fit to put to him with a view to elucidating the facts referred to in statements or documents brought on the record as herein provided.

(iv) When the evidence in support of the allegations has been recorded the enquiring officer shall, (a) if he considers that such allegations are not substantiated, either discharge the accused himself, if he is empowered to punish him, or recommend his discharge to the Superintendent, or other officer, who may be so empowered, or (b) proceed to frame a formal charge or charges in writing, explain them to the accused officer and call upon him to answer them.

(v) The accused officer shall be required to state the defence witnesses whom he wishes to call and may be given time, in no case exceeding forty eight hours, to prepare a list of such witnesses, together with a summary of the facts as to which



they will testify. The enquiring officer shall be empowered to refuse to hear any witnesses whose evidence he considers will be irrelevant or unnecessary in regard to the specific charge framed. He shall record the statements of those defence witnesses whom he decides to admit in the presence of the accused, who shall be allowed to address questions to them, the answers to which shall be recorded; provided that the enquiring officer may cause to be recorded by any other police officer superior in rank to the accused the statement of any such witness whose presence cannot be secured without undue delay or inconvenience, and may bring such statement on to the record. The accused may file documentary evidence and may for this purpose be allowed access to such files and papers, except such as form part of the record of the confidential office of the Superintendent of Police, as the enquiring officer deems fit. The supply of copies of documents to the accused shall be subject to the ordinary rules regarding copying fees.

(vi) At the conclusion of the defence evidence, or, if the enquiring officer so directs, at any earlier stage following the framing of a charge, the accused shall be required to state his own answer to the charge. He may be permitted to file a written statement and may be given time, not exceeding one week, for its preparation, but shall be bound to make an oral statement in answer to all questions which the enquiring officer may see fit to put to him, arising out of the charge, the recorded evidence, or his own written statement.

(vii) The enquiring officer shall proceed to pass orders of acquittal or punishment, if empowered to do so, or to forward the case with his finding and recommendations to an officer having the necessary powers. Whenever the officer passing the orders of punishment proposes to take into considerations the adverse entries on the previous record of the accused police officer, he shall provide reasonable opportunity to the defaulter to defend himself; and a copy or at least a gist of those entries shall be conveyed to the defaulter and he shall be asked to convey to



the defaulter and he shall be asked to give such explanation as he may deem fit. The explanation furnished by the defaulter shall be taken into account by the officer before passing orders in the case.

(viii) Nothing in the foregoing rule shall debar a Superintendent of Police from making or causing to be made a preliminary investigation into the conduct of a suspected officer. Such an enquiry is not infrequently necessary to ascertain the nature and degree of misconduct which is to be formally enquired into. The suspected police officer may or may not be present at such preliminary enquiry, as ordered by the Superintendent of Police or other gazetted officer initiating the investigation, but shall not cross-examine witnesses. The file of such a preliminary investigation shall form no part of the formal departmental record, but statements therefrom may be brought to the formal record when the witnesses are no longer available in the circumstances detailed in clause (iii) above. All statements recorded during a preliminary investigation should be signed by the person making them and attested by the officer recording them.

12. In the case in hand, the Disciplinary Authority granted opportunity to file reply as well as personal hearing. The petitioner filed reply to show cause notice and was personally heard. He was duly supplied copy of inquiry report. The Appellate and Revisionary Authority heard the petitioner and passed speaking orders. The Authorities have recorded findings and followed the prescribed procedure. There is no material irregularity or infirmity in the impugned orders warranting interference.

13. 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.

24.07.2025
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
Yes