



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

CWP-25227-2024

Date of Decision: 23.01.2025

Bhagirath

.....Petitioner(s)

Versus

State of Haryana and others

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Ankur Lal, Advocate, for the petitioner.

Mr. Raman Sharma, 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 charge sheet dated 26.10.2015 (Annexure P-1); inquiry report dated 14.12.2015 (Annexure P-2); order dated 29.01.2016 (Annexure P-4) vide which punishment of stoppage of 4 annual increments was imposed on him; order dated 21.03.2016 (Annexure P-6) whereby his appeal was dismissed; order dated 13.05.2016 (Annexure P-8) vide which his revision was dismissed by the revisionary authority; and order dated 29.07.2022 (Annexure P-9) to the extent he was not fully exonerated from the punishment awarded.

2. The petitioner is part of Haryana Police Force and he joined the force as Constable in 1992. On account of misconduct, in October' 2015, the respondent initiated departmental inquiry against him. The Inquiry Officer submitted his report and on the basis of inquiry report, a show cause notice whereby punishment of stoppage of 4 annual increments with permanent effect

was proposed, came to be issued to him. The Disciplinary Authority, vide order



dated 29.01.2016 awarded him punishment of stoppage of 4 annual increments with permanent effect. He preferred an appeal before Appellate Authority which vide order dated 21.03.2016 dismissed his appeal. He preferred revision before Revisionary Authority which vide order dated 13.05.2016 dismissed the same. The competent authority recorded adverse remarks in his Annual Confidential Report for the year 2015-16. He preferred mercy petition before Government and Additional Chief Secretary, Government of Haryana, vide order dated 29.07.2022 modified the punishment. He reduced it to forfeiture of one annual increment with temporary effect meaning thereby major punishment was converted into minor.

3. Mr. Ankur Lal, learned counsel for the petitioner submits that petitioner was implicated on the ground that he did not register FIR on 14.04.2015 and further did not record statement of injured person who was lying admitted in the hospital. The FIR was registered on 16.04.2015 and injured died on 15.04.2015. The complainant of the FIR withdrew his complaint and FIR was subsequently cancelled. Thus, petitioner was unfairly subjected to punishment of forfeiture of increment which entailed recording of adverse remarks in his Annual Confidential Report.

4. *Per contra*, Mr. Sharma submits that petitioner failed to perform his duty on 14.04.2015. Despite direction of SHO, he did not register FIR and further failed to record statement of injured who on the very next day passed away. The action of petitioner gave impetus to villagers to block the traffic. They created ruckus which tarnished image of the State police.

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

6. From the perusal of record, it is evident that despite there being no provision to entertain petition against the order of Revisionary Authority, the



State Government entertained petition of the petitioner as mercy petition. The mercy petition was not only entertained but also major penalty was substituted by minor penalty. The petitioner has already got a favourable order despite there being no provision in Punjab Police Rules, 1934 (as applicable to the State of Haryana) (in short, '1934 Rules').

7. The petitioner in the departmental inquiry was found guilty of misconduct. The Disciplinary Authority imposed major penalty of forfeiture of 4 increments with cumulative effect. The Appellate Authority as well as Revisionary Authority dismissed his appeal and revision. The Government taking lenient view has converted major penalty into minor penalty.

8. 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 LiveLaw (SC) 998*** 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



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***. 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.”

9. 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.

10. 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.

11. 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. ...”

12. The petitioner has failed to point out any material infirmity in the impugned orders warranting interference of this Court. The authorities have followed procedure prescribed by law and petitioner was found guilty of misconduct. He has been awarded bare minimum punishment.

13. Dismissed.

23.01.2025
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	Yes