



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

Date of Decision:05.09.2025

1. CWP No. 26295 of 2025

Rajinder Singh

....Petitioner

VS.

State of Punjab and others

....Respondents

2.	CWP-26297 of 2025	Mustaq Masih vs. State of Punjab and others
3.	CWP- 26300 of 2025	Paramjit Singh vs. State of Punjab and others

CORAM: HON’BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Rakesh Sobti, Advocate
 for the petitioner(s)

 Mr. Aman Dhir, DAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. By this common order, CWP No. 26295 of 2025, CWP No. 26297 of 2025 and CWP No. 26300 of 2025 are hereby adjudicated as common questions of law and facts are involved. With the consent of both sides, facts are borrowed from CWP No. 26295 of 2025.

2. The petitioner through instant petition under Article 226/227 of the Constitution of India is seeking setting aside of:

- (i) Order dated 16.06.2021 whereby he was awarded punishment of forfeiture of two years’ service with



cumulative effect for annual increments and it was further held that he would not be entitled to any allowance except already received during the period of suspension:

(ii) Order dated 06.09.2023 whereby respondent No.5 dismissed his appeal; and

(iii) Order dated 10.10.2023 whereby respondent No.2 dismissed his revision.

3. The petitioner joined Punjab Police as Constable on 05.09.1993. He was promoted as Head Constable on 07.04.2010. He was further promoted as Assistant Sub Inspector on 15.05.2021. While he was posted in CIA Staff, an FIR No. 98 dated 06.07.2018, under Sections 384, 385, 34 of IPC came to be registered against him at Police Station, E-Division, Amritsar. The said FIR was registered on the statement of Shish Ram to the effect that he was engaged in selling toys near Gurudwara Shri Baba Atal Rai Sahab Ji. The petitioner and his two companions extorted a sum of Rs.23,000/- from him by threatening and alleging that he was engaged in purchasing stolen mobiles in the garb of toys. Three officials including petitioner were implicated. The respondent initiated departmental proceedings. The Enquiry Officer found the petitioner guilty of alleged offence. The Disciplinary Authority issued him show cause notice dated 30.12.2020 to which petitioner filed reply. The Disciplinary Authority awarded him punishment of forfeiture of two years' service with cumulative effect for annual increments. It was further ordered that no further allowances would be payable for the suspension period. The petitioner came to be acquitted vide judgment dated 27.04.2022 passed by Additional Chief Judicial Magistrate, Amritsar. The petitioner preferred an appeal before



Appellate Authority assailing order dated 16.06.2021. The Appellate Authority rejected his appeal. He preferred further appeal before DGP who vide order dated 10.10.2023 dismissed the same. As per Rule 7.3 of Punjab Civil Services Rules, Volume 1 Part-I Chapter VII, a suspended employee is entitled to full pay and allowance if he is reinstated upon exoneration.

4. Mr. Rakesh Sobti, Advocate submits that entire case of Department was based upon statement of Shish Ram. He appeared before Trial Court as well as Enquiry Officer. He confirmed his signature on the complaint, however, did not identify petitioner as the same person who had snatched money from him. He has further deposed that he has signed on blank papers. He had disclosed name on the asking of someone. Despite said statement, the petitioner was declared guilty in the departmental proceedings and awarded punishment of forfeiture of two years service with cumulative effect for annual increments. He has been acquitted by Trial Court, thus, he is entitled to full salary and allowances for the period of suspension. He remained under suspension from 14.07.2018 to 13.11.2018. During the said period he was paid 50% of his salary. He is entitled to 100% of his salary. The punishment order is also liable to be set aside.

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

6. From the perusal of record, it comes out that an FIR under Section 384, 385 and 34 of IPC was registered against three police officials including the petitioner. The FIR was registered on the basis of complaint of Shish Ram. He in his complaint specifically disclosed that three police officials in civil dress have snatched a sum of Rs. 23,000/- from him. The said amount was snatched threatening and alleging that he was engaged in



selling stolen mobiles in the garb of toys. Shish Ram twisted his statement before Enquiry Officer as well as Trial Court. He did not depose that no incident at all took place. He confirmed that a sum of Rs. 23,000/- was snatched from him by three persons. He stated that petitioners were not the same persons who had snatched money and he can identify police officials who had actually snatched. The said statement proves that Shish Ram had confirmed even during enquiry that three police officials had snatched Rs. 23,000/- from him. There is nothing on record disclosing that there was enmity between Shish Ram and three police officials. It is well known fact that it is not an easy task to get registered an FIR against police officials. The FIR must have been registered under compelling circumstances and nothing is on record disclosing that any higher police officer had grudge against the petitioner and he hatched a conspiracy against the petitioners.

7. The petitioner was placed under suspension for only four months. He was paid 50% of his salary as subsistence allowance. He was subjected to minimum punishment of forfeiture of two years service with cumulative effect. He has been acquitted by Trial Court as complainant turned hostile. All the authorities i.e. Senior Superintendent of Police, Inspector General of Police and Director General of Police have formed same opinion. There seems no factual or legal infirmity in the impugned order warranting interference.

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 SCC OnLine SC 1617** while advertng to 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.

9. 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.

10. 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 Article 226 of the Constitution to issue a writ of certiorari can be legitimately exercised.

11. The petitioner is claiming benefit of Rule 7.3 of Civil Services Rules. The benefit of said Rule is not available to petitioner because he was acquitted by Trial Court as complainant turned hostile and he has not been exonerated by Departmental Authorities, thus, he is not entitled to benefit of said Rule. He was rightly paid 50% salary during the suspension period as subsistence allowance.

12. In view of the above discussion and findings, the instant petitions deserve to be dismissed and accordingly hereby dismissed.

(JAGMOHAN BANSAL)
JUDGE

05.09.2025
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	