

2026:PHHC:019801



206

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

**CWP-10785-2001 (O&M)
DECIDED ON: 02.02.2026**

SURAT SINGH

.....PETITIONER(S)

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.Saurabh Gulia, Advocate for the petitioner(s).

Mr. Parveen Mehta, Addl. A.G., Haryana

SANDEEP MOUDGIL, J (ORAL)

Prayer

1. This writ petition has been filed under Articles 226/227 of the Constitution of India seeking quashing of the impugned order dated 25.07.2000 (Annexure P/3) vide which increments without cumulative effect of petitioner have been stopped and he has been denied the salary for the period for which the petitioner had remained out of service as well as issue a further writ in the nature of Mandamus directing the respondents to grant the full back wages the period the petitioner remained out of service, alongwith other benefits and interest at the rate of 18% per annum.

Brief Facts

2. The petitioner was appointed as Helper Welder on 04.06.1976 through Employment Exchange on a regular basis in Haryana Roadways, Gurgaon Depot. On 17.11.1995, a false complaint was made against the petitioner by SSI Mr. Waryam Singh alleging overwriting in the attendance register, misbehaviour with officers, and late reporting by 1 hour and 30 minutes.
3. Pursuant thereto, the petitioner was charge-sheeted on 05.01.1996 under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 (in short as 1987 Rules). The petitioner duly submitted his reply and a departmental enquiry was conducted and the Enquiry Officer submitted his report.
4. Thereafter, a show cause notice dated 25.01.1999 proposing removal from service was issued to the petitioner, to which he submitted a detailed reply. Despite the same, the services of the petitioner were terminated vide order dated 22.07.1999 (Annexure P-1) without proper appreciation of facts and by imposing a punishment disproportionate to the alleged charges.
5. Aggrieved, the petitioner filed an appeal dated 14.08.1999 (Annexure P-2) before respondent No.2. The appellate authority, vide order dated 25.07.2000 (Annexure P-3), set aside the termination order and substituted the penalty with stoppage of two annual increments without cumulative effect, while maintaining continuity of service and seniority. Also, the petitioner was denied back wages for the period he remained out of service.
6. Being aggrieved by the punishment imposed, the petitioner has filed the present writ petition.

Contentions**On Behalf Of The Petitioner**

7. Learned counsel submits that the allegations levelled against the petitioner were trivial in nature and did not constitute such grave misconduct as would warrant the imposition of a major penalty. The entire disciplinary proceedings were initiated on the basis of a false and motivated complaint, and the charges were neither serious nor supported by cogent evidence.

8. It is further contended that during the course of the departmental enquiry, no substantive material was brought on record to establish the allegations of overwriting in the attendance register or misbehaviour with the officers. The Enquiry Officer failed to properly appreciate the evidence on record and arrived at findings which are perverse and unsustainable in law. In fact, the only allegation that could even remotely be said to have been established was that the petitioner reported late on one occasion by approximately one and a half hours. Even if the said allegation is taken to be correct for the sake of argument, the same at best amounts to a minor lapse and not a misconduct of such gravity as to justify stoppage of two annual increments.

9. Learned counsel submits that the punishment imposed is grossly disproportionate to the alleged misconduct and shocks the conscience. The doctrine of proportionality, which is well settled in service jurisprudence, mandates that the penalty must commensurate with the gravity of the charge. In the present case, a solitary instance of reporting late by 1.5 hours cannot be equated with serious misconduct warranting financial penalty affecting the petitioner's service benefits.

10. With regards to the denial of grant of backwages, it is argued that once the appellate authority set aside the order of termination and granted

continuity of service, there was no justification for denying the petitioner back wages for the period he remained out of service. The petitioner was kept out of employment not on account of any fault attributable to him but due to an illegal and disproportionate order passed by the respondents. Denial of back wages in such circumstances amounts to penalising the petitioner twice for the same alleged lapse.

10. It is further contended that the issue is no longer res integra, as this Court in a similarly situated case of CWP-1515-2000, decided on 23.11.2000 (Annexure P-4), has categorically held that once reinstatement with continuity of service is granted, denial of back wages is unjustified. The case of the petitioner is squarely covered by the said judgment.

On behalf of the Respondents

11. Learned State counsel submits that the present writ petition is misconceived and devoid of merit. It is contended that the petitioner was rightly charge-sheeted for carelessness on duty and misbehaviour with officers, and a regular departmental enquiry was duly conducted wherein the Enquiry Officer found the petitioner guilty of the charges.

12. It is further submitted that although the competent authority imposed the penalty of termination, the appellate authority exercised due discretion, re-examined the entire record, and took a lenient view by setting aside the termination order and reinstating the petitioner in service. However, considering the proved misconduct, the appellate authority rightly imposed the penalty of stoppage of two annual increments and consciously denied financial benefits for the period the petitioner remained out of service, while maintaining his seniority.

14. Learned State counsel argues that once the appellate authority has affirmed the guilt of the petitioner and granted reinstatement by way of indulgence, the denial of back wages is fully justified and in consonance with settled service jurisprudence. The petitioner, having been found guilty of misconduct, cannot claim back wages as a matter of right.

Analysis

15. Having heard learned counsel for the parties and after careful perusal of the pleadings, at the outset, this court deems it apt to consider the scope of judicial review in disciplinary proceedings. The doctrine of judicial review in legal jurisprudence, flows within clearly defined banks as categorically laid out by the Apex court in “**Union Of India vs P. Gunasekaran (2015) 2 SCC 610**”. Relevant extract is as under:

“The High Court, in exercise of its powers under Article 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.*

Under Article 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.”

16. A meticulous reading of the record demonstrates that the primary charge of overwriting in the attendance register was unsubstantiated. From a bare perusal of the appellate order (Annexure P-3), it is evident that the charge of overwriting in the attendance register was not proved. An employee of the Gurgaon Depot, who appeared as a witness, categorically stated that no overwriting was made by the petitioner. The attendance register was produced at the time of hearing and did not substantiate the allegation. Consequently, the said charge stood disproved on record.

17. As regards the allegation of late coming, the record reveals that the petitioner reported late only on one occasion by about one and a half hours. The explanation furnished by the petitioner that he had taken his son for medical check-up at Rohtak has not been rebutted by the respondents by any cogent evidence. Thus, the sole surviving allegation pertains to a single instance of marginal delay, which by no stretch of imagination can be treated as grave misconduct warranting penal consequences of stoppage of increments or denial of back wages. The charges, therefore, are minor, isolated, and devoid of mala fide intent.

18. It is noted that the service of the petitioner was effectively terminated only on the ground of reaching duty late by one and a half hour on a single day, while the remaining charge was not proved. In such circumstances, holding the petitioner guilty and awarding punishment of stoppage of increments, coupled

with denial of back wages for the entire period he remained out of service, is wholly arbitrary and disproportionate.

19. The Apex Court has consistently held that punishment must be proportionate to the gravity of misconduct. In “**Union of India v. Tulsiram Patel, (1985) 3 SCC 398**”, the Court emphasized that disciplinary action must conform to principles of fairness, reasonableness, and equity. Otherwise also, trivial infractions cannot justify disproportionate penalties. The law regarding disproportionate punishment is well settled that and reference can be made to “**Union of India v. Ex. Constable Ram Karan 2021 INSC 715**”, wherein it was observed by the Supreme court that,

“22. The well ingrained principle of law is that it is the disciplinary authority, or the appellate authority in appeal, which is to decide the nature of punishment to be given to the delinquent employee. Keeping in view the seriousness of the misconduct committed by such an employee, it is not open for the Courts to assume and usurp the function of the disciplinary authority.

23. Even in cases where the punishment imposed by the disciplinary authority is found to be shocking to the conscience of the Court, normally the disciplinary authority or the appellate authority should be directed to reconsider the question of imposition of penalty. The scope of judicial review on the quantum of punishment is available but with a limited scope. It is only when the penalty imposed appears to be shockingly disproportionate to the nature of misconduct that the Courts would frown upon. Even in such a case, after setting aside the penalty order, it is to be left to the disciplinary/appellate authority to take a call and it is not for the Court to substitute its decision by prescribing the quantum of punishment. However, it is only in rare and exceptional cases where the court might to shorten the litigation may think of substituting its own view as to the quantum of punishment in place of punishment awarded by the competent authority that too after assigning cogent reasons.

*24. The principles have been culled out by a three-Judge Bench of this Court way back in **B.C. Chaturvedi v. Union of India and Others 1995(6) SCC 749** wherein it was observed as under:-*

"18. A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence

with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof."

25. It has been further examined by this Court in **Lucknow Kshetriya Gramin Bank (Now Allahabad, Uttar Pradesh Gramin Bank) and Another v. Rajendra Singh (2013) 12 SCC 372** as under:-

"19. The principles discussed above can be summed up and summarised as follows:

19.1. When charge(s) of misconduct is proved in an enquiry the quantum of punishment to be imposed in a particular case is essentially the domain of the departmental authorities.

19.2. The courts cannot assume the function of disciplinary/departmental authorities and to decide the quantum of punishment and nature of penalty to be awarded, as this function is exclusively within the jurisdiction of the competent authority.

19.3. Limited judicial review is available to interfere with the punishment imposed by the disciplinary authority, only in cases where such penalty is found to be shocking to the conscience of the court.

19.4. Even in such a case when the punishment is set aside as shockingly disproportionate to the nature of charges framed against the delinquent employee, the appropriate course of action is to remit the matter back to the disciplinary authority or the appellate authority with direction to pass appropriate order of penalty. The court by itself cannot mandate as to what should be the penalty in such a case.

19.5. The only exception to the principle stated in para 19.4 above, would be in those cases where the co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of misconduct were identical or the co-delinquent was foisted with more serious charges. This would be on the doctrine of equality when it is found that the employee concerned and the co-delinquent are equally placed. However, there has to be a complete parity between the two, not only in respect of nature of charge but subsequent conduct as well after the service of charge-sheet in the two cases. If the co-delinquent

accepts the charges, indicating remorse with unqualified apology, lesser punishment to him would be justifiable.”

20. Further, it is not in dispute that even the appellate authority recognized the excessiveness of termination but retained the finding of guilt and imposed stoppage of two increments, while denying back wages. Such an approach is inconsistent with settled law. The principle of proportionality, repeatedly emphasised by the Supreme Court, mandates that minor misconduct must attract minor consequences, and disciplinary authority must exercise discretion judiciously, guided by fairness and equity. A single instance of delay of merely 1 hour 30 minutes, under a reasonable and justified circumstance, cannot form the basis of a sustained finding of guilt and imposition of punishment.

21. With regards of deprivation of back wages of the petitioner, it is observed that the appellate authority granted reinstatement with continuity of service and seniority. Once continuity of service is maintained, denial of back wages cannot be sustained in the absence of any finding that the petitioner was gainfully employed during the intervening period or that such denial was justified on equitable grounds. No such reasons have been recorded in the impugned order.

22. The law is settled that where an employee is kept out of service on account of an order which is subsequently found to be unjustified or disproportionate, denial of back wages would amount to inflicting a further and impermissible penalty. Disciplinary authority must not exceed the bounds of justice, and minor lapses cannot be magnified into career-altering penalties.

Conclusion

23. Applying these principles, this Court is satisfied that both the original and appellate orders are arbitrary, disproportionate, and legally unsustainable. The

entire disciplinary proceedings, the termination order dated 22.07.1999 (P/1) and the appellate order dated 25.07.2000(P/3) to the extent it imposes punishment of stoppage of increments and denies back wages to the petitioner, hereby stands quashed. The petitioner shall be deemed to have never been removed from service, with all consequential benefits, including increments, allowances, and seniority.

24. The respondents are directed to grant the petitioner all consequential benefits, including full back wages, along with interest @ 6% per annum from the date of accrual to the date of it’s actual realization, within a period of 4 weeks from the date of receipt of a certified copy of this order.

25. The present petition is **allowed** in the above terms. Pending applications, if any, stand disposed.

02.02.2026
anuradha

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned	:Yes/No
Whether reportable	:Yes/No