



459

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

CWP-3390-2005 (O&M)**Date of Decision: 12.01.2026**

Mukesh

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Aditya Yadav, Advocate and
Ms. Hemlata, Advocate
for the petitioner.

Mr. Ravi Partap Singh, DAG, 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 orders passed by Departmental Authorities whereby he was awarded punishment of forfeiture of four increments with permanent effect.

2. The petitioner was enrolled as Constable on 20.06.1974. He was promoted as Assistant Sub Inspector (**ASI**) w.e.f. 03.12.1996. He was implicated in FIR No.120 dated 15.07.2003 registered under Sections 452, 448, 511, 427, 147 and 148 of IPC at Police Station Rajaund. He was suspended w.e.f. 21.10.2003. He was subjected to departmental inquiry wherein he was found guilty. He was awarded punishment of forfeiture of four increments with permanent effect. He preferred appeal which came to be dismissed. The allegation in the FIR was that he in uniform visited a village without authorization and intervened in a family property dispute between Smt. Pushpa Devi and Sh. Prem Nath. He was

carrying his service revolver. The Investigating Officer filed police report and petitioner faced trial. He came to be acquitted by trial Court as prosecution failed to prove its case beyond doubt.

3. Learned counsel representing the petitioner submits that petitioner was subjected to punishment of forfeiture of four increments on the same set of allegations which formed basis of criminal proceedings. The petitioner stands acquitted by trial Court, thus, as per Rule 16.3 of Punjab Police Rules, 1934 (as applicable to State of Haryana) (in short 'PPR') was entitled to waiver from punishment. The Authorities had not considered order of trial Court.

4. *Per contra*, learned State counsel submits that aforesaid FIR was registered against the petitioner and his acquittal in criminal case does not entail waiver from punishment. He was acquitted extending benefit of doubt.

5. Heard the arguments and perused the record.

6. The petitioner was acquitted vide judgment dated 01.12.2009 passed by learned ACJM, Kaithal. The relevant extracts of the judgment are reproduced as below:

"After hearing both the sides, I am of the view that broader facts are not disputed in this case and the law cited at bar is also not disputed by the opposite counsel. Even If defence of the accused is not considered at all we have to see whether the prosecution has been able to prove Its case against the accused or not. I would like to point out here itself that Ex.PE, Ex.PE/1 confessional statements are not sufficient to prove the alleged occurrence that are with respect to recovering some vehicles allegedly used in commission of crime. But, whether the vehicles were same

or not the doubt remains because the prosecution witnesses nowhere have stated what was the registration number of vehicles on which accused came on the spot therefore, if some Maruti Car and Jeep allegedly to be of some friend of one of the accused has been recovered that itself do not prove the charges against the accused which is with respect to forming unlawful assembly, committing criminal trespass into the house of the complainant, damaging house hold articles and giving theft of life to the complainant because recovering such vehicle has no direct nexus with the commission of alleged crime for which testimony of the prosecution witnesses as has come on the file is required to be meticulously examined. Why the mud from registration plates of the vehicles was not scratched by complainant partly has not been explained by them especially when these vehicles remained parked in the street for about 2-1/2 hours. The evidence on the file is contradictory to the prosecution case set up, at cross-roads with each other and is not probable and natural so as to term the case proved.”

7. The entire dispute revolves around interpretation of Rule 16.3 and 16.25 of 1934 Rules, thus, it would be inevitable to look at aforesaid Rules which are reproduced as below:

“16.3. Action following on a judicial acquittal. - (1) When a Police Officer has been tried and acquitted by a criminal court he shall be not be punished departmentally on the same charge or on a different charge upon the evidence cited in the criminal case, whether actually led or not, unless -

*(a) the criminal charge has failed on technical grounds; or
(b) in the opinion of the Court or of the Neutral Superintendent of Police, the prosecution witnesses have been won over; or*

(c) the Court has held in its judgment that an offence was actually committed and that suspicion rests upon the

police officer concerned; or

(d) the evidence cited in the criminal case discloses facts unconnected with the charge before the court which justify departmental proceedings on a different charge; or

(e) additional evidence admissible under rule 16.25(1) in departmental proceedings is available.

(2) Departmental proceedings admissible under sub-rule (1) may be instituted against Lower Subordinates by the order of the Superintendent of Police but may be taken against Upper Subordinates only with the sanction of Deputy Inspector General of Police, and a police officer against whom such action is admissible shall not be deemed to have been honorably acquitted for the purpose of rule 7.3 of the Civil Services Rules (Punjab), Volume I, Part I.”

16.25 Standards of evidence and Nature of charges.- *(1) A police officer called upon to answer a charge of misconduct must be given every reasonable opportunity of proving his innocence; officers conducting departmental enquiries are, however, not bound to follow the provisions of the Criminal Procedure Code or Indian Evidence Act. They may admit any evidence which they consider relevant, and should exclude evidence which is irrelevant to the specific charge under inquiry, or which is introduced merely to prejudice the opposite party or to cloud the issue. They require only that standard of proof which is necessary to satisfy themselves whether the charge is established or not. Discipline must also be maintained in relation to the proceedings of departmental enquiries. Refusal by an accused police officer to plead or answer questions; inordinate delay in producing his defence; insubordinate behaviour before the enquiring officer, and the intemperate or impertinent questioning of officers by accused officers who are their inferiors in official status, are, in addition to being contrary to the spirit of the rules for the conduct of departmental enquiries, entirely contrary to the requirements of discipline, and shall be*

treated accordingly.

(2) Charges need not be framed in relation only to a specific incident or act of misconduct. When reports received against an officer or a preliminary enquiry show that his general behaviour has been such as to be unfitting to his position, or that he has failed to reach or maintain a reasonable standard of efficiency he may and should be charged accordingly, and a finding of guilty on such a charge will be valid ground for the infliction of any authorised departmental punishment which may be considered suitable in the circumstances of the case.

8. A Division Bench of this Court in ***Bhag Singh v. Punjab & Sind Bank Baldev Singh, 2005 (6) SLR 464*** has adverted with question of acquittal, honorable acquittal, benefit of doubt etc. The Court has held that mere use of expression "benefit of doubt" or "not proved beyond reasonable doubt" by the trial Court or the appellate Court, cannot be permitted to convert an acquittal on the ground of no evidence, to something less than that. The concepts of "honourable acquittal", "fully exonerated" or "acquitted of blame" are all unknown to the Criminal Procedure Code, 1973. Therefore, the term "benefit of doubt" cannot detract impact of the acquittal.

9. In ***Stanzen Toyotetsu India P. Ltd. v. Girish V., 2014 (3) SCC 636***, the Apex Court has held that departmental inquiry is aimed at maintaining discipline and efficiency in service while criminal prosecution for an offence is launched for violation of a duty that the offender owes to the society and both operate in separate and different spheres and intending to serve totally different purposes. The relevant extracts of the judgment read as:-

"9. In A.P. SRTC v. Mohd. Yousuf Miya [(1997) 2 SCC 699 : 1997 SCC (L&S) 548] this Court declared that the purpose underlying departmental proceedings is distinctly different from the purpose behind prosecution of offenders for commission of offences by them. While criminal prosecution for an offence is launched for violation of a duty that the offender owes to the society, departmental enquiry is aimed at maintaining discipline and efficiency in service. The difference in the standard of proof and the application of the rules of evidence to one and inapplicability to the other was also explained and highlighted only to explain that conceptually the two operate in different spheres and are intended to serve distinctly different purposes."

10. The Supreme Court in **Noida Entrepreneurs Assn. v. Noida, (2007) 10 SCC 385**, while discussing its catena of judgments has held that criminal proceedings are launched for an offence for violation of a duty, which the offender owes to the society, whereas, the departmental enquiry is to maintain discipline in the service and efficiency of public service. The relevant extracts of judgment read as:

*"11. A bare perusal of the order which has been quoted in its totality goes to show that the same is not based on any rational foundation. The conceptual difference between a departmental enquiry and criminal proceedings has not been kept in view. Even orders passed by the executive have to be tested on the touchstone of reasonableness. [See **Tata Cellular v. Union of India** [**Tata Cellular v. Union of India, (1994) 6 SCC 651**] and **Teri Oat Estates (P) Ltd. v. State (UT of Chandigarh)** [**Teri Oat Estates (P) Ltd. v. State (UT of Chandigarh), (2004) 2 SCC 130**].] The conceptual difference between departmental*

*proceedings and criminal proceedings have been highlighted by this Court in several cases. Reference may be made to **Kendriya Vidyalaya Sangathan v. T. Srinivas** [**Kendriya Vidyalaya Sangathan v. T. Srinivas, (2004) 7 SCC 442 : 2004 SCC (L&S) 1011**], **Hindustan Petroleum Corpn. Ltd. v. Sarvesh Berry** [**Hindustan Petroleum Corpn. Ltd. v. Sarvesh Berry, (2005) 10 SCC 471 : 2005 SCC (Cri) 1605**] and **Uttaranchal RTC v. MansaramNainwal** [**Uttaranchal RTC v. MansaramNainwal, (2006) 6 SCC 366 : 2006 SCC (L&S) 1341**].*

'8. ... The purpose of departmental enquiry and of prosecution are two different and distinct aspects. The criminal prosecution is launched for an offence for violation of a duty, the offender owes to the society or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service. It would, therefore, be expedient that the disciplinary proceedings are conducted and completed as expeditiously as possible. It is not, therefore, desirable to lay down any guidelines as inflexible rules in which the departmental proceedings may or may not be stayed pending trial in the criminal cases against the delinquent officer. Each case requires to be considered in the backdrop of its own facts and circumstances. There would be no bar to proceed simultaneously with departmental enquiry and trial of a criminal case unless the charge in the criminal trial is of grave nature involving complicated questions of fact and law. Offence generally implies infringement of public duty, as distinguished from mere private rights punishable under criminal law.

When the trial for a criminal offence is conducted it should be in accordance with proof of the offence as per the evidence defined under the provisions of the Evidence Act, 1872 [in short "the Evidence Act"]. The converse is the case of departmental enquiry. The enquiry in a departmental proceedings relates to conduct or breach of duty of the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. That the strict standard of proof or applicability of the Evidence Act stands excluded is a settled legal position.

*... Under these circumstances, what is required to be seen is whether the departmental enquiry would seriously prejudice the delinquent in his defence at the trial in a criminal case. It is always a question of fact to be considered in each case depending on its own facts and circumstances.' [Ed. : As observed in **A.P. SRTC v. Mohd. Yousuf Miya, (1997) 2 SCC 699**, pp. 704-05, para 8.]"*

11. Supreme Court in the case of ***State of Karnataka and another v. Umesh* 2022 (6) SCC 563**, has held that punishment awarded in departmental proceeding cannot be quashed on the ground of acquittal in criminal trial. High Court does not act as an Appellate Authority over the findings of Disciplinary Authority. The relevant extracts of the judgment reads as:

"22. In the exercise of judicial review, the Court does not act as an appellate forum over the findings of the disciplinary authority. The court does not re-appreciate the evidence on the basis of which the finding of misconduct has been arrived at in the course of a disciplinary enquiry. The Court in the exercise of judicial review must restrict its review to determine whether:

(i) the rules of natural justice have been complied with;

- (ii) the finding of misconduct is based on some evidence;*
- (iii) the statutory rules governing the conduct of the disciplinary enquiry have been observed; and*
- (iv) whether the findings of the disciplinary authority suffer from perversity; and*
- (v) the penalty is disproportionate to the proven misconduct.*

23. However, none of the above tests for attracting the interference of the High Court were attracted in the present case. The Karnataka Administrative Tribunal having exercised the power of judicial review found no reason to interfere with the award of punishment of compulsory retirement. The Division Bench of the High Court exceeded its jurisdiction under Article 226 and trenched upon a domain which falls within the disciplinary jurisdiction of the employer. The enquiry was conducted in accordance with the principles of natural justice. The findings of the enquiry officer and the disciplinary authority are sustainable with reference to the evidence which was adduced during the enquiry.

The acquittal of the respondent in the course of the criminal trial did not impinge upon the authority of the disciplinary authority or the finding of misconduct in the disciplinary proceeding

12. Hon'ble Supreme Court in ***Ram Lal v. State of Rajasthan, 2023 SCC Online SC 1618*** has held that Courts are supposed to look into the judgment of acquittal while adjudicating departmental proceedings.

The relevant extracts of the judgment read as :

"28. Expressions like "benefit of doubt" and "honorably acquitted", used in judgments are not to be understood as magic incantations. A court of law will not be carried away by the mere use of such terminology. In the present case, the Appellate Judge has recorded that Exh. P-3, the original mark-sheet carries the date of birth as 21.04.1972 and the same has also been proved by the witnesses

examined on behalf of the prosecution. The conclusion that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge can only be arrived at after a reading of the judgment in its entirety. The court in judicial review is obliged to examine the substance of the judgment and not go by the form of expression used."

13. From the above cited judgments, following guiding principles can be culled out:

- i) Standard of evidence and yardstick adopted to adjudicate same matter in departmental and criminal proceedings are different.
- ii) Conviction in criminal trial rests upon proving guilt beyond reasonable doubt whereas punishment in departmental proceedings rests upon preponderance of probabilities.
- iii) High Court, in exercise of power conferred by Article 226 of Constitution of India, while deciding petition against departmental punishment cannot act as an appellate authority.
- iv) If the departmental and criminal proceedings are based upon same set of allegations, charges and evidence either oral or documentary and there is acquittal in criminal trial, the departmental proceedings may be set aside.
- v) It is duty of the Court to examine findings of criminal court and it should not sway by use of expression 'acquittal', 'honourable acquittal' and 'beyond reasonable etc.

14. The service of petitioner was governed by PPR. As per Rule 16.25 of PPR, the standard of proof necessary to establish charges is satisfaction of Inquiry Officer. The Inquiry Officer is not required to

prove guilt beyond reasonable doubt. As per aforecited judgments, standard of proof in departmental proceedings is preponderance of probabilities. In case of police official, Rule itself is providing that satisfaction of Inquiry Officer is necessary to establish charge. There is no need to establish guilt beyond reasonable doubt.

15. In the case in hand, the sole ground to challenge findings of Departmental Authorities is acquittal in criminal case. In view of aforecited judgments and Rule 16.25 of PPR, if criminal proceedings are initiated besides departmental proceedings, the outcome of departmental proceedings on account of the fact that both proceedings are adjudicated applying different yardstick, cannot be ignored or brushed aside on account of dropping of criminal proceedings. In the departmental proceedings, the department is not bound to prove its case beyond the reasonable doubt because findings depend upon preponderance of probabilities. The trial Court examined the same evidence as discussed and relied upon in departmental inquiry, however, returned its findings in view of the fact that prosecution was bound to prove its case beyond reasonable doubt. The departmental authorities, in the present case, have duly considered the evidence and passed the impugned punishment order. There was allegation against the petitioner that he armed with his service revolver visited the village on different occasions and intervened in family property dispute. He was subjected to punishment of forfeiture of four increments with permanent effect on the basis of evidence on record. It is difficult to conclude that there was no evidence or view taken by authorities was impossible.

16. 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.

17. 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.

18. In the wake of above discussion and findings, the present petition deserves to be dismissed and accordingly *dismissed*.

(JAGMOHAN BANSAL)
JUDGE

12.01.2026
Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No