



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

CWP-14619-2004 (O&M)
Date of Decision: 14.01.2026

Naresh Kumar

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Harsh Aggarwal, Advocate and
 Mr. Anshul Sharma, Advocate
 for the petitioner.

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

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226 and 227 of the Constitution of India is seeking setting aside of orders passed by Departmental Authorities whereby he has been awarded punishment of forfeiture of five increments with permanent effect.

2. The petitioner joined Police Force as Constable on 03.10.1989. In 2002, he was transferred to Police Post Kalanaur as Driver of Motorcycle No.HNR-5747. He developed differences with Head Constable (for short 'HC') Jaswant Singh. He was transferred from Police Post Kalanaur to PGIMS, Rohtak. On 11.04.2003, a fight took place between petitioner and HC Jaswant Singh. The petitioner suffered injury on his eye. He rushed to hospital for medical assistance. At the behest of HC Jaswant Singh, the respondent initiated departmental inquiry against the petitioner alleging that he misbehaved with his senior

HC Jaswant Singh and took away motorcycle from Police Station despite being transferred on 11.04.2003. The Inquiry Officer vide report dated 04.09.2003 concluded that motorcycle was not taken away as per record and logbook. A report regarding taking away motorcycle from Police Station has been lodged by HC Jaswant Singh in order to save himself. It was petitioner who suffered injury on his eye. In this regard, MLR and *ruqa* were sent by Doctor to SHO. The Inquiry Officer found him guilty of not joining PGIMS, Rohtak despite his transfer. The Superintendent of Police issued him show cause notice dated 20.12.2003 proposing punishment of forfeiture of five increments with permanent effect. He filed reply to said show cause notice. The Disciplinary Authority vide order dated 31.01.2004 awarded him punishment of forfeiture of five increments with permanent effect. He preferred an appeal which came to be dismissed by Appellate Authority vide order dated 24.03.2004. He preferred revision which came to be dismissed vide order dated 15.07.2004 passed by Director General of Police.

3. Learned counsel representing the petitioner submits that Inquiry Officer did not find the petitioner guilty of alleged offence. The Disciplinary Authority assuming that Inquiry Officer had found him guilty of alleged misconduct issued show cause notice proposing punishment and thereafter awarded punishment. The higher authorities mechanically dismissed his appeal/revision.

4. Learned State counsel reiterates the findings of the departmental authorities and submits that no interference is warranted. The petitioner belongs to a disciplined force, thus, his conduct must be above board. He is bound to maintain high standards of discipline.

5. On being asked, learned State counsel expressed her inability to controvert that Inquiry Officer did not find petitioner guilty of charges framed against him.

6. Heard the arguments and perused the record.

7. It is settled proposition of law that punishment should be incommensurate to alleged offence. The principle of proportionality should be followed by all quasi-judicial and judicial authorities while awarding punishment irrespective of nature of offence. As per principle of proportionality, even punishment prescribed by legislation must be incommensurate to alleged offence. If punishment is disproportionate to alleged offence, it is violative of Article 14 of the Constitution of India.

8. In *Om Kumar v. Union of India, (2001) 2 SCC 386*, Supreme Court vide order dated 4.5.2000 proposed to re-open the quantum of punishments imposed in departmental inquiries 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 punishments in view of 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. The Court has highlighted proportionality as a constitutional doctrine.

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. ..."

9. In the instant case, the petitioner was subjected to departmental inquiry. There were two charges against him i.e. misbehaving with HC Jaswant Singh and taking away motorcycle from Police Station despite being transferred. The Inquiry Officer found him innocent *qua* both the charges. He rather found HC Jaswant Singh guilty of lodging false complaint. Relevant extracts of inquiry report read as:

"I have duly considered the statements of prosecution witnesses, defence witnesses and the statement of delinquent, that from the prosecution side. The allegation against C Naresh Kumar No. 945 is that when he was posted at P.P. Kalanaur, then he misbehaved with his senior officer after taking drinks & had a fight with him and after departure due to transfer used the govt. motorcycle without permission.

Against this, the defence witness No. 1 Dr. T.K.Pasrija, Medical Officer CHC Kalanaur presented by the delinquent during departmental enquiry has stated in his statement that C. Naresh Kumar No. 945 came to him around 1.00 am. He had an injury on his eye. I checked his eye. On checking it was found that there was an injury on his eye. After examination Naresh referred to General Hospital, Rohtak. Because there was no eye specialist in this hospital. Apart from this, the statements of defence witnesses were minutely examined. During investigation as per the defence witnesses it is found that C. Naresh Kumar No. 945 had a fight with HC Jaswant Singh No. 74. The injury on the eye of C. Naresh Kumar has been revealed to be inflicted by HC Jaswant Singh. In this context it has been revealed that the SHO was sent the copy of MIR and

Ruga by doctor. SHO told that this fight took place in P.P. of PS Kalanaur. Report of SHO and copy of MR was sent by me to the P.P. for further proceedings but it has been found that no action has been taken there in this regard. C. Naresh Kumar No. 945 was charged with taking of govt. motor cycle but as per record and log book the motor cycle has not been found to be taken away. As per the M/C P.P., the motor cycle-has been found to be in proper condition and charge was taken as per the log book and oil and kilo meter have been found to be proper. But a report has been registered regarding taking away of motorcycle from the P.P. This report has also been lodged on the next day morning by HC Jaswant in order to save himself.

The only offense of C. Naresh Kumar No. 945 is that when he had already been transferred to PIMS Rohtak, then he should have immediately reached at the place of his posting. But HC Jaswant Singh 74 is also equally guilty because they had a fight due to some old enmity. This is proved from the fact that when P.P. Incharge had gone to PS Ganour for investigation, then being senior HC Jaswant Singh should have taken appropriate steps with regard to Doctors Ruga & MLR.”

The Inquiry Officer found petitioner innocent and HC Jaswant Singh guilty. No action was taken against HC Jaswant Singh, however, without recording disagreement note, show cause notice proposing punishment was issued. The petitioner was having service of 14 years to his credit. There was no bad entry in his character role or service record. The Disciplinary Authority without examining inquiry report firstly issued show cause notice and thereafter awarded punishment of forfeiture of five increments. In the absence of disagreement note, there was no occasion to punish the petitioner. The Appellate Authority as well as Revisionary Authority mechanically dismissed petitioner's

appeal and revision. It seems to be a case of casual adjudication of departmental proceedings because alleged delinquent was a mere Constable. The Disciplinary Authority casually awarded major penalty of forfeiture of five increments and higher authorities upheld order of disciplinary authority. It is a case of casualty and miscarriage of justice on the part of departmental authorities.

10. In the wake of above discussion and findings, the impugned orders deserve to be set aside and accordingly set aside. The petitioner has suffered financial loss besides mental agony during last 20 years. He deserves to be compensated. Accordingly, costs of Rs.1,10,000/- is imposed upon respondent which shall be paid to petitioner within 45 days from today. On account of setting aside of punishment order, he would be entitled to arrears which shall be released within six months from today along with interest @ 6% per annum failing which respondent shall be liable to pay interest @ 9% per annum from the expiry of said period.

11. **Allowed** in above terms.

12. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

14.01.2026
Prince Chawla

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