



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

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CWP-6702-2007 (O&M)

Date of Decision: 29.01.2026

GURDIP SINGH

...Petitioner

Vs.

STATE OF PUNJAB AND ORS.

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Vipin Mahajan, Sr. Advocate with
Ms. Tejinder Kaur, Advocate
for the petitioner

Mr. Aman Dhir, Deputy Advocate General, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Article 226/227 of the Constitution of India is seeking setting aside of orders passed by authorities whereby he was dismissed from service without conducting inquiry as contemplated by Rule 16.24 of Punjab Police Rules, 1934 (in short 'PPR') read with Article 311 of Constitution of India.

2. The petitioner joined Police force SPO in 1994. He was assigned constabulary number in 1996. In 2000, eight criminal cases were registered against him and he was arrested. The Disciplinary Authority invoking Clause (b) of second proviso to Article 311(2) of the Constitution of India dismissed him from service without conducting inquiry. He unsuccessful preferred appeal before Appellate Authority followed by revision before Revisionary Authority.

3. Learned counsel for the petitioner submits that respondent dispensed with inquiry without any cogent reason. There was no material before disciplinary authority which compelled him to invoke Clause (b) of second proviso to Article 311(2) of the Constitution of India. The disciplinary authority mechanically dispensed with inquiry. Act of respondent was in violation of judgment of Hon'ble Supreme Court in ***“Union of India Vs. Tulsi Ram Patel”*, (1985) 3 SCC 398**. The petitioner was implicated in 8 criminal cases, however was acquitted in all the cases. His acquittal indicates that he was wrongly implicated in all the cases in a short span of two years. The higher authorities have mechanically rejected his appeal/revision.

4. Learned State Counsel submits that the petitioner was dismissed from service because he had links with terrorists and anti-social elements. SSP under compelled circumstances in exercise of power conferred by Clause (b) of second proviso to Article 311(2) of the Constitution of India dispensed with inquiry.

5. Heard the arguments and perused the record.

6. Different Benches of Supreme Court including a Constitution Bench in ***“Syed Yakoob Vs K.S. Radhakrishnan”*, AIR 1964 SC 477** and a two judge bench 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. 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, we 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 to issue a writ of certiorari can be legitimately exercised.

7. In the impugned order, the respondent has not disclosed intelligence input which gave impetus to dispense with inquiry and

dismiss the petitioner from service, however, during the course of hearing, learned State Counsel produced report which was returned after perusal. Report of DSP shows that the petitioner was kept under surveillance and it was found that he was involved in terrorist activities. The Disciplinary Authority in its order dated 15.03.2000 has noticed that petitioner had links with terrorists and anti-social elements. He had incited and instigated other members of the force as well as general public. His activities were dangerous to sovereignty of the nation. There is no possibility that witnesses would depose against him in the department inquiry due to fear of life and bodily injury.

8. The petitioner was implicated in 8 FIRs. He was acquitted by trial Court because witnesses did not depose against him. All the FIRs were registered at the behest of private persons. They had alleged robbery and dacoity by petitioner. These facts disclose that petitioner was not an innocent or genuine officer.

9. A Coordinate Bench of this Court in **RSA No.385 of 1993** titled as “*State of Punjab and others Vs. Dalbir Singh through his LRs*”, relying upon judgment of Supreme Court in “*Union Territory, Chandigarh and others Vs. Mohinder Singh*”, (1997) 3 SCC 68 has upheld dispensation of inquiry under Article 311(2) of the Constitution of India, in view of peculiar situation prevailing in the State of Punjab during the period in question. The case of petitioner is squarely covered by judgment of this Court in *Dalbir Singh (supra)* as well as Supreme Court in *Mohinder Singh (Supra)*.

10. There is another facet of the matter which needs to be noticed. The petitioner was dismissed from service in 2000 and a period almost two and half decades has passed away. At this belated stage, especially when conduct of petitioner was not above the board, there seems no reason to interfere with concurrent findings recorded by different authorities under Punjab Police Act, 1861 read with Punjab Police Rules, 1934.

11. In the wake of above discussion and findings, this Court is of the considered opinion that the instant petition deserves to be dismissed and accordingly dismissed.

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

(JAGMOHAN BANSAL)
JUDGE

January 29, 2026
Deepak DPA

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