



IOIN-1-CWP-6708-2009 in/and CWP-6708-2009

-1-

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

201

**IOIN-1-CWP-6708-2009
in/and CWP-6708-2009
Date of Decision: 16.01.2026**

E/ASI Ram Kishan (deceased) through legal representatives

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Samrat Malik, Advocate for the petitioner

Mr. Ravi Partap Singh, Deputy Advocate General, Haryana

JAGMOHAN BANSAL, J. (Oral)

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

- i. order dated 17.05.2007 whereby he has been awarded punishment of stoppage of two future increments with permanent effect;
- ii. order dated 04.02.2008 whereby his appeal was dismissed; and
- iii. order dated 18.10.2008 whereby his revision petition was dismissed.

2. The petitioner joined Police Force as Constable on 23.04.1973. He moved up in the ranks and was promoted as Assistant Sub-Inspector. He came to be arrested in FIR No. 953 dated 14.12.2005 under Sections 323,

452 & 506 of Indian Penal Code, 1860 and Sections 61-1-14 of Excise Act

MOHIT KUMAR
2026.01.16 15:08
I attest to the accuracy and
integrity of this
order/judgment.

**IOIN-1-CWP-6708-2009 in/and CWP-6708-2009****-2-**

registered at Police Station City Gurgaon which was lodged against him for trespassing his neighbour's property and abusing him under the influence of liquor. The respondent initiated departmental inquiry against him on basis the aforesaid FIR. The Inquiry Officer found him guilty of alleged misconduct and Disciplinary Authority vide order dated 17.05.2007 awarded him punishment of stoppage of two future increments with permanent effect. He unsuccessfully preferred appeal as well as revision before the authorities.

3. Learned counsel for the petitioner submits that the Inquiry Officer did not appreciate evidence in true spirit and held him guilty. The Disciplinary Authority straightway issued show cause notice proposing punishment. It was in gross violation of principles of natural justice. He was finally awarded punishment of stoppage of two increments with permanent effect. There was no evidence against him still was subjected to aforesaid punishment. The higher authorities have passed impugned orders without application of mind. Inquiry was initiated only on the basis of FIR lodged against him. He vide judgment dated 10.11.2009 has been acquitted by learned Chief Judicial Magistrate, Gurugaon in aforesaid FIR.

4. *Per contra*, learned State counsel submits that Inquiry Officer served copy of relevant documents of departmental inquiry upon the petitioner and he was afforded reasonable time to lead his defence. Inquiry Officer after considering relevant documents held him guilty and framed charges against him. After perusing findings of Inquiry Officer, Disciplinary Authority issued him show cause notice proposing penalty of dismissal from service, however, taking a lenient view, awarded punishment of stoppage of two increments with permanent effect.



6. The petitioner has challenged impugned orders on technical grounds. He has not raised dispute on merit. There is no allegation of *mala fide* or connivance against Disciplinary Authority. In such circumstances, it would be inequitable and unfair to interfere with impugned orders awarding punishment of stoppage of two annual increments with permanent effect. Court is not oblivious of the fact that interference in such type of cases discourages higher Police Officials to take action against erring subordinates.

7. Scope of interference while exercising jurisdiction under Articles 226/227 of the Constitution of India in disciplinary proceedings is very limited. The High 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 Inquiry 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 LiveLaw (SC) 998*** while adverting with 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.



8. A Constitution Bench in *Syed Yakoob v. 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 v. 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.

9. In case in hand, the petitioner was subjected to departmental inquiry. The authorities duly followed prescribed procedure. Inquiry Officer examined witnesses and thereafter submitted his report. The petitioner was given full opportunity to put-forth his stand. Thus, it cannot be concluded that there was either violation of procedure or authorities did not appreciate

**IOIN-1-CWP-6708-2009 in/and CWP-6708-2009****-5-**

amount to substitution of opinion of departmental authorities which is impermissible in law. Punishment awarded is incommensurate to offence committed by petitioner. Standard of evidence in departmental and criminal proceeding is different. Different yardstick is applied in both proceedings, thus, mere acquittal in criminal case cannot be ground to set aside departmental punishment.

10. In the wake of above discussion and findings, this Court is of the considered opinion that present petition being bereft of merit deserves to be dismissed and accordingly dismissed.

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

(JAGMOHAN BANSAL)
JUDGE

16.01.2026*Mohit Kumar*

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