



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

201

CWP-19560-2014 (O&M)

Date of Decision: 09.02.2026

JAI INDER

...Petitioner

Vs.

STATE OF HARYANA AND ORS.

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Kartikay Chaudhary, Advocate for
Ms. Neelam Chaudhary, Advocate
for the petitioner

Mr. Akshit Pathania, Assistant Advocate General, 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 dismissal from service.

2. The petitioner was recruited as Constable in Haryana Police Force on 15.04.1992. On 15.06.2007 He was promoted from time to time. On 15.06.2007, he along with other police officials was entrusted with duty to provide protection to couple Manoj and Babli who had married against the wishes of family members of girl-Babli. Aforesaid couple was murdered by accused Gurdev Singh (relative of deceased) after SHO SI Jagbir Singh allowed them to board Haryana Roadways bus going towards Karnal. Scrutiny of Phone call details of all the police officials

deployed with aforesaid couple revealed that SHO Jagbir Singh and petitioner were in regular contact with accused-Gurdev Singh and they revealed location of aforesaid couple. A regular departmental inquiry was initiated against petitioner and SI Jagbir Singh. SI Jagbir Singh was exonerated from the charges levelled against him whereas petitioner was found guilty. A show cause notice was served upon petitioner wherein punishment of dismissal from service was proposed. Inquiry officer vide order dated 25.04.2008 filed his report. The disciplinary authority awarded punishment of dismissal from service vide order dated 29.04.2008. The petitioner preferred appeal before Inspector General of Police, Ambala Range, Ambala Cantt against order of dismissal. IGP accepted his appeal and reinstated him vide order dated 26.06.2008. The Director General of Police, (for short DGP) reviewed order of IGP and recorded disagreement note. A show cause notice was again served upon petitioner. DGP, Haryana while exercising powers under Rule 16.28 of Punjab Police Rules, 1934 (for short 'PPR') (as applicable to state of Haryana vide order dated 11.08.2009 restored dismissal order passed by Superintendent of Police, Kaithal and set aside appellate order. On 15.10.2009 petitioner preferred appeal before Additional Chief Secretary to Government of Haryana, Home Department Chandigarh. He approached this Hon'ble Court by way of *CWP-12556-2012* which was disposed of vide order dated 09.07.2012 with a direction to Secretary, Department of Home, Haryana to decide his appeal within three months. He also preferred COCP-1460-2013. Home Department vide order dated 02.07.2013 rejected his appeal.

3. Learned State counsel submits that petitioner was in regular contact of Gurdev Singh who committed murder of the young couple. Call record clearly reveals that it was petitioner who leaked rather supplied information about whereabouts of aforesaid couple to Gurdev Singh. Matter was investigated and Gurdev Singh was found guilty. He was awarded death sentence by trial Court, however, his sentence was committed to life imprisonment. There is no doubt that petitioner leaked information about aforesaid couple, thus, he was guilty of heinous crime warranting punishment of dismissal from service.

4. Heard the arguments and perused the record.

5. 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 v. Subrata Nath, 2022 LiveLaw (SC) 998* while advertizing 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. The Hon'ble Supreme Court has considered its judicial precedents including a two-judge Bench judgment in ***Union of India and Others v. P. Gunasekaran***. The relevant extracts of the judgment read as :

*"19. Laying down the broad parameters within which the High Court ought to exercise its powers under Article 226/227 of the Constitution of India and matters relating to disciplinary proceedings, a two Judge Bench of this Court in **Union of India and Others v. P. Gunasekaran** held thus :*

"12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 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.

13. Under Articles 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."

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22. To sum up the legal position, being fact finding authorities, both the Disciplinary Authority and the Appellate Authority are vested with the exclusive power to examine the evidence forming part of the inquiry report. 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. However, in exercise of powers of judicial review, the High Court or for that matter, the Tribunal cannot ordinarily re-appreciate the evidence to arrive at its own conclusion in respect of the penalty imposed unless

and until the punishment imposed is so disproportionate to the offence that it would shock the conscience of the High Court/Tribunal or is found to be flawed for other reasons, as enumerated in P. Gunasekaran (supra). If the punishment imposed on the delinquent employee is such that shocks the conscience of the High Court or the Tribunal, then the Disciplinary/Appellate Authority may be called upon to re-consider the penalty imposed. Only in exceptional circumstances, which need to be mentioned, should the High Court/Tribunal decide to impose appropriate punishment by itself, on offering cogent reasons therefore."

6. The Supreme Court has time and again reminded that High Court cannot examine factual position and disturb findings recorded by departmental authorities. The Court has further held that High Court cannot re-quantify quantum of punishment, however, if Court finds that punishment awarded is disproportionate to alleged offence, the Court may ask the authorities to re-consider quantum of punishment.

7. Different Benches of Supreme Court including 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.

8. 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, High Court 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.

9. From the perusal of record, it is evident that petitioner was responsible for safe custody of Manoj and Babli who solemnized marriage against the wish of their families. The petitioner was aware of location of aforesaid couple. He passed on information to Gurdev Singh who committed murder of aforesaid couple. Act of the petitioner was

reprehensible and deplorable. He was given opportunity to present his case and there is no material irregularity or infirmity in the findings recorded by authorities warranting interference. The authorities have rightly passed impugned order of dismissal from service.

10. 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.

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

(JAGMOHAN BANSAL)
JUDGE

February 09, 2026
Deepak DPA

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