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

CWP-17749-2017 (O&M)

Date of Decision: 13.01.2026

Gheesa Ram

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JAGMOHAN BANSAL.

Present:- Mr. Viren Nehra, Advocate for petitioner (Through V.C.)

Mr. Ravi Pratap Singh, D.A.G., 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 has been awarded punishment of forfeiture of five increments with permanent effect.

2. The petitioner joined Haryana Police Force as Constable. He was promoted from time to time. In 2009, he was placed under suspension while was posted as Sub Inspector at Police Station Rajaund. He was transferred to Police Line, Kaithal vide order dated 25.08.2009. He did not join his transferred place of posting for 28 days, thus, the respondent initiated departmental inquiry against him alleging that he remained absent without seeking approval of the competent authority. The Inquiry Officer found him guilty of alleged misconduct. The disciplinary authority issued him show cause notice proposing punishment of stoppage of five annual increments with permanent effect. The disciplinary authority vide order dated 21.04.2010 awarded him punishment of stoppage of five increment with permanent effect. He preferred an appeal which came to be dismissed by Appellate Authority



vide order dated 17.06.2010. He preferred revision which came to be dismissed vide order dated 11.02.2011 passed by Director General of Police. He preferred mercy petition before the Home Secretary on 11.04.2011 which was returned by the office of Director General of Police on 30.05.2017 with an observation that no mercy petition lies after adjudication of revision petition.

3. Learned counsel for petitioner submits that punishment awarded by authorities is disproportionate to alleged misconduct. The petitioner remained absent for 28 days because he was unwell. In the departmental inquiry, Dr. Sandeep Jain and Dr. Bhupinder Singh, Medical Officers confirmed his illness and need of rest. He duly intimated department about his medical condition.

4. *Per contra*, learned State Counsel reiterates 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 was bound to maintain high standards of discipline.

5. I have heard the arguments and perused the record.

6. It is a 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 in commensurate to alleged offence. If punishment is disproportionate to alleged offence, it is violative of Article 14 of the Constitution of India.

7. 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. Proportionality as a constitutional doctrine has been highlighted as follows:

"30. On account of a Chapter on Fundamental Rights in Part III of our Constitution right from 1950, Indian Courts did not suffer from the disability similar to the one experienced by English Courts for declaring as unconstitutional legislation on the principle of proportionality or reading them in a manner consistent with the charter of rights. Ever since 1950, principle of "proportionality" has indeed been applied vigorously to legislative (and administrative) action in India. While dealing with the validity of legislation infringing fundamental freedoms enumerated in Article 19(1) of the Constitution of India - such as freedom of speech and expression, freedom to assemble peaceably, freedom to form associations and unions, freedom to move freely throughout the territory of India, freedom to reside and settle in any part of India - this Court has occasion to consider whether the restrictions imposed by legislation were disproportionate to the situation and were not the least restrictive of the choices. The burden of proof to show that the restriction was reasonable lay on the State. "Reasonable restrictions" under Articles 19(2) to (6) could be imposed on these freedoms only by legislation and courts had occasion throughout to consider the proportionality of the restrictions. In numerous judgments of this Court, the extent to which "reasonable restrictions" could be imposed was considered. In Chintamanrao v. State of M.P. [AIR 1951 SC 118: Mahajan, J. (as he then was) observed that "reasonable restrictions" which the State could impose on the fundamental rights "should not be arbitrary or of an excessive nature, beyond what is required in the interests of the public". "Reasonable" implied intelligent care and deliberation, that is, the choice of a course which reason dictated. Legislation which arbitrarily or excessively invaded the right could not be said to contain the quality of reasonableness unless it struck a proper balance between the rights guaranteed and the control



permissible under Articles 19(2) to (6). Otherwise, it must be held to be wanting in that quality. Patanjali Sastri, C.J. in State of Madras v. V.G. Row [AIR 1952 SC 196], observed that the Court must keep in mind the "nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time". This principle of proportionality vis-a-vis legislation was referred to by Jeevan Reddy, J. in State of A.P. v. McDowell & Co. (1996) 3 SCC 709 recently. This level of scrutiny has been a common feature in the High Court and the Supreme Court in the last fifty years. Decided cases run into thousands.

31. Article 21 guarantees liberty and has also been subjected to principles of "proportionality". Provisions of the Criminal Procedure Code, 1974 and the Indian Penal Code came up for consideration in Bachan Singh v. State of Punjab [(1980) 2 SCC 684 the majority upholding the legislation. The dissenting judgment of Bhagwati, J. (see Bachan Singh v. State of Punjab (1982) 3 SCC 24 dealt elaborately with "proportionality" and held that the punishment provided by the statute was disproportionate.

32. So far as Article 14 is concerned, the courts in India examined whether the classification was based on intelligible differentia and whether the differentia had a reasonable nexus with the object of the legislation. Obviously, when the courts considered the question whether the classification was based on intelligible differentia, the courts were examining the validity of the differences and the adequacy of the differences. This is again nothing but the principle of proportionality. There are also cases where legislation or rules have been struck down as being arbitrary in the sense of being unreasonable [see Air India v. NergeshMeerza [(1981) 4 SCC 335 (SCC at pp. 372-373)]. But this latter aspect of striking down legislation only on the basis of "arbitrariness" has been doubted in State of A.P. v. McDowell and Co. (1996) 3 SCC 709."

8. 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. The petitioner remained absent from duty for 28 days. He was not a habitual absentee. He brought on record that he was unwell, thus could not join office. In these circumstances, by no means or reasons, awarded punishment can be called proportionate to alleged misconduct. In the absence of peculiar circumstances, the respondent was bound to award punishment proportionate to alleged offence.

10. The Supreme Court has held that in case Court finds that punishment awarded by authority is disproportionate to alleged misconduct, the Court should remand the matter back to competent authority to reconsider quantum of punishment. Thus, in the normal course matter ought to be remanded to authorities to reconsider quantum of punishment. However, in this particular case, this Court does not find it appropriate to remand the matter back to departmental authorities because a period of 16 years from the date of alleged offence has already passed away. The authorities have passed impugned orders mechanically and there are all possibilities that remand would multiply the litigation. Thus, to cut short the litigation and considering the alleged misconduct, this Court deems it appropriate to reduce the quantum of punishment from forfeiture of five increments with permanent effect to forfeiture of three increments with permanent effect. Ordered accordingly.

11. Allowed in above terms. On account of modification of punishment, arrears may arise which shall be paid within 6 months from today otherwise interest

@ 6% per annum from the expiry of said period shall be payable.



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

(JAGMOHAN BANSAL)

JUDGE

13.01.2026

SDK

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