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

**CWP-27197-2017 (O&M)
Date of Decision: 04.02.2026**

CONSTABLE NO 290/AMB RAKESH KUMAR

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL.

Present:- Mr. Narender Pal Bhardwaj, Advocate for petitioner.

Mr. Akshit Pathania, AAG, Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of order dated 21.04.2016 passed by departmental authorities whereby he was awarded punishment of stoppage of ten annual increments with permanent effect and denied back wages.

2. The petitioner joined Haryana Police force on 30.10.2000 as Constable. In 2008 while the petitioner was posted in Cyber Crime Branch, Ambala, FIR No.05 dated 05.02.2008 under Sections 7 & 13 of Prevention of Corruption Act, 1988 at Police Station, Ambala was registered against him for accepting Rs.500/- as illegal gratification. He was subjected to departmental inquiry wherein he was found guilty of alleged charges. The disciplinary authority vide order dated 31.07.2012 awarded him punishment of dismissal from service. He preferred appeal which came to be dismissed by order dated 31.10.2012 passed by Appellate Authority. He faced trial and came to be convicted vide judgment dated 01.02.2010 passed by trial Court. The judgment of conviction was set aside by this Court vide judgment dated 04.11.2015. After his acquittal, he preferred revision before the Director General of Police to



reinstate him in light of the judgment of acquittal passed by this Court. By impugned order dated 21.04.2016, the Director General of Police modified the punishment order from that of dismissal of service to stoppage of ten annual future increments with permanent effect. He was also denied back wages.

3. Learned counsel for the petitioner submits that petitioner was acquitted by this Court vide order dated 04.11.2015. He was entitled to reinstatement as per Rule 16.3 of Punjab Police Rules, 1934 (as applicable to State of Haryana) (for short 'PPR'). The respondent has wrongly imposed punishment of forfeiture of ten increments with permanent effect. On one hand, ten increments are forfeited and on the other back wages are denied. The petitioner remained out of service from 2012-2016. It amounts to double punishment. The awarded punishment is disproportionate.

4. 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 is bound to maintain high standards of discipline.

5. 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 incommensurate 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. The Court has highlighted proportionality as a constitutional doctrine.

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. In the case in hand, the petitioner was convicted by trial Court. He preferred appeal before this Court which was allowed. He was reinstated by Director General of Police, however, was awarded punishment of stoppage of ten increments with permanent effect. He was also denied back wages for the period he remained out of service. He remained out of service from 2012-2016. He did not get salary for the said period. By imposing punishment of forfeiture of increments in lieu of dismissal from service, the respondent has formed an opinion that there should be financial punishment instead of dismissal from service. The petitioner is denied salary for the dismissal period, thus, punishment of forfeiture of ten increments is disproportionate and excessive. 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 almost 18 years from the date of alleged offence has already passed away. 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 ten increments with permanent effect to two increments with permanent effect. Ordered accordingly.

11. On account of modification of punishment, arrears may arise which shall be paid within 6 months from today failing which respondent would be liable to pay interest on arrears @ 9% p.a. from the expiry of said period.

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

(JAGMOHAN BANSAL)
JUDGE

04.02.2026
SDK

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