



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

CWP-26144-2018

Date of Decision :16.03.2026

Bhag Singh

...Petitioner

Versus

Postgraduate Institute of Medical Education
& Research and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Namit Gautam, Advocate for the petitioner.

Mr. Vikrant Sharma, Advocate for respondents.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 12.03.2018 (Annexure P/1) passed by respondent No.5-Central Administrative Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as 'the Tribunal') whereby, the challenge raised by the petitioner qua his removal from service on account of fraud committed by him at the time of seeking appointment, has been rejected.

2. It may be noticed that the petitioner joined the respondent-Institute as a Ward Servant in the year 1988. At the time of seeking appointment, the date of birth which was mentioned by the petitioner in order to fulfil the eligibility was 17.09.1959. On the basis of the said information given based upon a forged date of birth certificate, the petitioner was selected for the post of Ward Servant and appointed as well. During the



service period of the petitioner, a complaint was received that the date of birth of the petitioner was not 17.09.1959 but the same was 17.09.1954. On the basis of the said complaint, the departmental proceedings were initiated wherein, it was confirmed that the actual date of birth of the petitioner is 17.09.1954 and not 17.09.1959 which fact was duly conceded by the petitioner during the departmental proceedings.

3. Keeping in view the fact that in case the correct date of birth was given by the petitioner at the time of seeking appointment, he would not have been eligible to compete for the post which makes it clear that the change of date of birth was only to seek eligibility so as to compete for the post which amounts to fraud.

4. Keeping in view the outcome of the departmental proceedings, the petitioner was removed from service by passing order dated 22.05.2012 (Annexure A-15), which order was challenged in an appeal, which appeal was also dismissed on 07.04.2014 (Annexure A-20) and even the revision petition filed against the said order was dismissed vide order dated 23.02.2016 (Annexure A-22). The said orders dated 22.05.2012 (Annexure A-15), 07.04.2014 (Annexure A-20) as well as 23.02.2016 (Annexure A-22) were jointly challenged before the Tribunal which were negatived by the Tribunal by impugned order dated 12.03.2018 (Annexure P-1) hence, the present petition.

4. Even during the course of hearing before this Court, learned counsel for the petitioner submits that though, there was a discrepancy in the mentioning of the date of birth by the petitioner at the time of seeking appointment but, keeping in view the fact that the petitioner had rendered 24 years of service before he was removed from service, some compassion be



shown that he should be compulsorily retired from service rather than removed from service so that he can avail the pensionary benefits.

5. We have heard learned counsel for the parties and have gone through the record with their able assistance.

6. The argument which is being raised by the learned counsel for the petitioner is that keeping in view the facts and circumstances of the present case, the imposition of punishment of removal from service is disproportionate to the charges alleged and proved and, therefore, the same should be reviewed.

7. The law on the said issue has already been settled by the Hon'ble Supreme Court of India in **Civil Appeal No.219-2023 titled as, Union of India and others vs. Const. Sunil Kumar, decided on 19.01.2023** wherein, it has been held that even if the punishment is disproportionate to the charges alleged and proved, still the Court cannot interfere unless and until the punishment imposed is shockingly disproportionate to the charges alleged and proved. Relevant paragraphs of the judgment are as under:-

“6.2 Even otherwise, the Division Bench of the High Court has materially erred in interfering with the order of penalty of dismissal passed on proved charges and misconduct of indiscipline and insubordination and giving threats to the superior of dire consequences on the ground that the same is disproportionate to the gravity of the wrong. In the case of Surinder Kumar (supra) while considering the power of judicial review of the High Court in interfering with the punishment of dismissal, it is observed and held by this Court after considering the earlier decision in the case of [Union of India Vs. R.K. Sharma](#); (2001) 9 SCC 592 that in exercise of powers of judicial review interfering with the punishment of dismissal on the ground that it was disproportionate, the punishment should not be merely



disproportionate but should be strikingly disproportionate. As observed and held that only in an extreme case, where on the face of it there is perversity or irrationality, there can be judicial review under [Article 226](#) or 227 or under [Article 32](#) of the Constitution.

6.3 Applying the law [laid down by](#) this Court in the aforesaid decision(s) to the facts of the case on hand, it cannot be said that the punishment of dismissal can be said to be strikingly disproportionate warranting the interference of the High Court in exercise of powers under [Article 226](#) of the Constitution of India. In the facts and circumstances of the case and on the charges and misconduct of indiscipline and insubordination proved, the CRPF being a disciplined force, the order of penalty of dismissal was justified and it cannot be said to be disproportionate and/or strikingly disproportionate to the gravity of the wrong. Under the circumstances also, the Division Bench of the High Court has committed a very serious error in interfering with the order of penalty of dismissal imposed and ordering reinstatement of the respondent.

6.4 At this stage, it is required to be observed that even while holding that the punishment/penalty of dismissal disproportionate to the gravity of the wrong, thereafter, no further punishment/penalty is imposed by the Division Bench of the High Court except denial of back wages. As per the settled position of law, even in a case where the punishment is found to be disproportionate to the misconduct committed and proved the matter is to be remitted to the disciplinary authority for imposing appropriate punishment/penalty which as such is the prerogative of the disciplinary authority. On this ground also, the impugned judgment and order passed by the Division Bench of the High Court is unsustainable.”

8. In the present case, the petitioner secured the job by way of fraud by wrongly mentioning his date of birth based upon a forged date of



birth certificate. Any compassion shown to such a person will not only encourage such kind of activities which are very prejudicial to a competitor, who is competing as per the rules but the same will also be putting premium to his act which cannot be done by the Court of law.

9. Keeping in view the totality of the facts and circumstances of the present case, wherein it is proved that the appointment sought was based upon fraud committed by the petitioner which fraud has been conceded by the petitioner as well, no ground for interference by this Court is made out and the writ petition is accordingly dismissed.

10. Civil miscellaneous application pending, if any, is disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

March 16, 2026

aarti

Whether speaking/reasoned : Yes

Whether reportable : No