

105 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-24088-2025
DECIDED ON: 20.04.2026

AMIT KUMAR

....PETITIONER

VERSUS

FCI AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. D.S Patwalia, Sr. Advocate with
Mr. Paras Chander Kashyap, Advocate for the petitioner(s)

Mr. Gurinder Singh, Sr. Advocate with
Mr. Vaibhav Gupta, Advocate with
Mr. Karambir Singh, Advocate for respondent No. 1- FCI.

SANDEEP MOUDGIL, J

Prayer

1. The jurisdiction of this Court has been invoked under Article 226/227 of the Constitution of India to seek issuance of an appropriate writ, order or direction, including Certiorari, for quashing the chargesheet dated 29.09.2021, inquiry report dated 06.01.2022, order dated 17.05.2022, and the appellate and review orders dated 23.11.2022 and 06.06.2025, whereby the petitioner has been compulsorily retired from service, and for issuance of Mandamus directing reinstatement of the petitioner with continuity of service and all consequential benefits, including arrears.

Brief Facts

2. The petitioner, appointed as Manager (Depot) with the respondent Corporation on 21.05.2012, served without blemish until an FIR dated 21.05.2021 came to be registered alleging demand of illegal gratification in connection with acceptance of rice consignments. Notably, even at the stage of grant of bail on 30.06.2021, it was recorded that no specific role, demand, or recovery was attributable to the petitioner.

3. Pursuant thereto, a common chargesheet dated 29.09.2021 was issued alleging, inter alia, failure to process consignments dated 19.05.2021 and 20.05.2021 and involvement in the alleged bribe. The petitioner consistently maintained that both consignments had been duly weighed and processed within time, and that the ultimate acceptance or rejection fell within the domain of the Quality Control staff, as per the governing instructions and guidelines.

4. During the departmental enquiry, the complainant himself attributed the demand and acceptance of money to other officials, and witnesses corroborated the petitioner's absence at the relevant time. The enquiry report, however, proceeded to hold the charges as "proved" essentially on the petitioner's supervisory position, despite recording that no demand or acceptance of bribe was attributable to him.

5. Acting upon such findings, the disciplinary authority imposed the penalty of compulsory retirement on 17.05.2022. The statutory appeal and review were dismissed in a mechanical manner, without addressing the petitioner's core submissions or the evidentiary inconsistencies, culminating in the rejection of the review on 06.06.2025 (P-25).

6. Hence, this petition seeking quashing of the chargesheet, enquiry report, and consequential orders, along with reinstatement and consequential benefits.

Contentions

On the behalf of petitioner

7. Learned counsel for the petitioner submits that the entire disciplinary action is vitiated by perversity of findings and patent non-application of mind. It is contended that the foundational allegation of demand and acceptance of illegal gratification stands wholly unsubstantiated, inasmuch as neither the complainant nor any witness has attributed any such role to the petitioner, rather, the material on record consistently points towards other officials. Even the order granting bail records absence of any demand or recovery from the petitioner, a circumstance which, though not determinative, lends credence to his defence.

8. It is further argued that the charge relating to non-processing of consignments is misconceived, as the petitioner had discharged his limited role of weighing and forwarding the consignments, whereas the final acceptance or rejection lay exclusively with the Quality Control staff, in terms of binding instructions. The enquiry officer, however, has proceeded on an erroneous understanding of the petitioner's supervisory role, thereby fastening liability in the absence of any statutory or factual basis.

9. Learned counsel urged that the findings are not supported by any cogent evidence and are based on conjectures, rendering them perverse in law. It is also contended that both the disciplinary and appellate authorities have passed cryptic and mechanical orders, failing to consider the petitioner's detailed representation and the material inconsistencies in the enquiry report. The

punishment of compulsory retirement, in the absence of any proved misconduct or financial loss, is grossly disproportionate, particularly in light of the petitioner's unblemished service record.

On behalf of the Respondents

10. Per contra, learned counsel appearing for the respondents submits that the writ petition is devoid of merit and is liable to be dismissed at the threshold. It is contended that the scope of judicial review in such matters is limited and does not extend to re-appreciation of evidence. The petitioner, in effect, seeks to convert the writ proceedings into an appeal on facts, which is impermissible in law.

11. It is argued that the petitioner was subjected to a full-fledged departmental enquiry wherein he was afforded adequate opportunity to defend himself, including the right to cross-examine witnesses and produce evidence. The findings of the enquiry officer, based on oral and documentary evidence, have concurrently been affirmed by the disciplinary, appellate, and reviewing authorities.

12. Learned counsel submits that the petitioner, being the Manager (Depot), was overall in charge of the functioning of the depot and was duty-bound to ensure compliance with the prescribed instructions. The failure to process consignments within the stipulated time, coupled with the material on record indicating connivance with other officials, sufficiently establishes misconduct on a preponderance of probabilities.

13. It is also urged that the absence of direct recovery does not dilute the misconduct in departmental proceedings. The punishment imposed, it is submitted, is commensurate with the gravity of charges proved.

Issue for Determination

Whether in disciplinary proceedings the charge of illegal gratification can be held to be proved in the absence of cogent and reliable evidence, so as to justify the imposition of the penalty of compulsory retirement?

Analysis

Scope of Review

14. At the outset, it requires to be reiterated that the jurisdiction of this Court under Article 226 of the Constitution in matters arising from disciplinary proceedings is circumscribed. The Court does not re-appreciate evidence as an appellate forum, nor does it substitute its own conclusions for that of the enquiry authority. Interference is warranted only where the findings are perverse, based on no evidence, or where the decision-making process is vitiated by illegality or irrationality. This principle stands crystallised in ***B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749*** wherein it was held by the Supreme Court that,

"12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence.

15. Similarly, in *Union of India vs P. Gunasekaran 2015(2) SCC 610*, the apex court laid down the specific grounds of review,

13. 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, re-appreciating even the evidence before the enquiry officer. The finding on Charge No. 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 Article [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.*

Under Article [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.*

Yet, the limited scope of review is not an abdication of judicial duty.

Where the conclusion reached is such that no reasonable person, acting on the material available, could have arrived at, the Court would be failing in its constitutional obligation if it does not step in.

16. Examined in this light, the present case discloses a foundational infirmity in the appreciation of evidence relating to the charge of illegal gratification. The entire edifice of Article-II rests primarily upon the statement of the complainant, Sh. Sikandarjeet Singh (PW-1), and the surrounding circumstances.

17. A careful reading of his examination-in-chief shows that the allegation of demand of ₹25,000 per stack is specifically attributed to Sh. Naresh Kumar, Manager (QC). The role assigned to the petitioner is not of demand or acceptance, but of alleged presence during a conversation dated 20.05.2021. Even this presence is not supported by any independent corroboration of substance.

18. More significantly, the prosecution's own evidence dilutes the allegation against the petitioner. PW-4, Sh. Satnam Singh, part of the raiding team, categorically stated that the trap was executed at Niranjandas Godown where Sh. Om Prakash was apprehended red-handed, and that the petitioner was not present at the spot of trap. There is thus a complete absence of any evidence of acceptance of illegal gratification by the petitioner. Equally, the statements of PW-2 and PW-3 do not attribute any demand or receipt of bribe to him. Even the Presenting Officer, in his own analysis, records that:

1. the demand and acceptance of gratification is not attributed to the petitioner,

2. *at best, the allegation is confined to his alleged presence during the demand by another official, and*

3. *“mere presence... does not imply that he has demanded the gratification.”*

19. Despite this, the charge under Article-II is ultimately held to be proved, primarily on the reasoning that supervisory lapse under Article-I is “linked” to involvement in Article-II. This reasoning, in the considered view of this Court, is legally untenable. Supervisory negligence cannot, by a process of inferential leap, be converted into culpability for corruption in the absence of foundational facts establishing demand or acceptance.

20. The law is clear that even in departmental proceedings, findings must be based on some cogent evidence. The court is of the view that suspicion cannot take the place of proof and that conclusions must be based on legally admissible evidence. In “*M.V. Bijlani v. Union of India, (2006) 5 SCC 88*”, the Supreme Court cautioned that findings based on conjectures and surmises cannot be sustained even on the touchstone of preponderance of probabilities, while observing that,

12. Disciplinary proceedings, however, being quasi-criminal in nature, there should be some evidences to prove the charge. Although the charges in a departmental proceedings are not required to be proved like a criminal trial, i.e., beyond all reasonable doubts, we cannot lose sight of the fact that the Enquiry Officer performs a quasi-judicial function, who upon analysing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the

basis of surmises and conjectures. He cannot enquire into the allegations with which the delinquent officer had not been charged with.

21. The present case travels beyond the permissible standard of “preponderance” into the impermissible territory of presumption. The essential ingredients of misconduct involving bribery—demand and acceptance—stand conspicuously unproved qua the petitioner. What remains is, at best, a doubtful allegation of presence, itself uncorroborated in material particulars.

22. The distinction between “some evidence” and “no evidence” assumes significance here. This is not a case of sufficiency of evidence; it is a case where the conclusion of guilt for corruption is drawn in the absence of any direct or reliable evidence linking the petitioner to the act. Such a finding is perverse in the eye of law and invites interference, as recognized in Narinder Mohan Arya v. United India Insurance Co. Ltd., (2006) 4 SCC 713, wherein the Apex Court observed that,

Indisputably, the writ court will bear in mind the distinction between some evidence or no evidence but the question which was required to be posed and necessary should have been as to whether some evidence adduced would lead to the conclusion as regard the guilt of the delinquent officer or not. The evidence adduced on behalf of the management must have nexus with the charges. The Enquiry Officer cannot base his findings on mere hypothesis. Mere ipso dixit on his part cannot be a substitute of evidence.

Disproportionate Punishment

23. That brings the Court to the question of punishment. The petitioner has not been dismissed from service but has been visited with the penalty of compulsory retirement, which, though classified as a lesser punishment, nevertheless carries serious civil consequences and stigma in the present factual context.

24. The doctrine of proportionality, though applied with restraint in service jurisprudence, mandates that the punishment must bear a reasonable nexus to the gravity of misconduct proved. In **Ranjit Thakur v. Union of India, (1987) 4 SCC 611**, it was held that a punishment which is so disproportionate as to shock the conscience of the Court would warrant interference. The apex court observed that,

*“10. Re : contention (d) : Judicial review generally speaking, is not directed against a decision, but is directed against the "decision making process". The question of the choice and quantum of punishment is within the jurisdiction and discretion of the Court-Martial. But the sentence has to suit the offence and the offender. It should not be A vindictive or unduly harsh. It should not be so disproportionate to the offence as to shock the conscience and amount in itself to conclusive evidence of bias. The doctrine of proportionality, as part of the concept of judicial review, would ensure that even on an aspect which is, otherwise, within the exclusive province of the Court-Martial, if the decision of the Court even as to sentence is an outrageous defiance of B logic, then the sentence would not be immune from correction. Irrationality and perversity are recognised grounds of judicial review. In **Council of Civil Service Unions v. Minister for the Civil Service, [1984] 3 Weekly Law Reports 1174 (HL)** Lord Diplock said :*

"... Judicial Review has I think developed to a stage today when without reiterating any analysis of the steps by which the development has come about, one can conveniently classify under three heads the grounds upon which administrative action is subject to control by judicial review. The first ground I would call 'illegality', the second 'irrationality' and the third 'procedural impropriety'. That is not to say that further development on a case by case basis may not in course of time add further grounds. I have in mind particularly the possible adoption in the future of the principle of 'proportionality' which is recognised in the administrative law of several of our fellow members of the European Economic community.....".

In Bhagat Ram v. State of Himachal Pradesh, AIR 1983 Supreme Court 454 this Court held :

"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.

The point to note and emphasise is that all powers have legal limits.

In the present case the punishment is so strikingly disproportionate as to call for and justify interference. It cannot be allowed to remain uncorrected in judicial review”.

25. Likewise, in **Coimbatore District Central Cooperative Bank v. Employees Assn., (2007) 4 SCC 669**, the Supreme Court while reiterating that disproportionate punishment can be corrected in judicial review, stated that,

“Now there is no doubt that though in case of proved misconduct, normally the imposition of a penalty may be within the discretion of the management there may be cases where the punishment of dismissal for the misconduct proved may be so unconscionable or so grossly out of proportion to the nature of the offence that the tribunal may be able to draw an inference of victimisation merely from the punishment inflicted.”

26. In the present case,

1. there is no evidence of demand or acceptance of bribe by the petitioner,
2. the prosecution witnesses do not implicate him in the act of gratification,
3. even the Presenting Officer concedes absence of direct involvement, and
4. the finding of guilt is essentially constructed on inference drawn from supervisory lapse,

and thus, the imposition of compulsory retirement is wholly disproportionate. It is not commensurate with the nature of misconduct that could at best be attributed to the petitioner, namely, a lapse in supervision.

Conclusion

27. The cumulative effect of the above discussion is that the finding of guilt under Article-II is unsustainable in law, being based on conjectures and not

on cogent evidence, and the consequential punishment imposed is shockingly disproportionate.

28. This Court is conscious of the limited scope of interference. However, where the conclusion is unsupported by evidence and the punishment visits the employee with serious civil consequences on such fragile foundation, judicial restraint must yield to judicial responsibility. Accordingly, the impugned orders cannot be sustained and hereby set aside.

29. The respondents are directed to reinstate the petitioner back in service forthwith and all consequential benefits shall be computed and disbursed within a period of 4 weeks from the date of receipt of certified copy of this order. However, the respondents reserve the discretionary power to impose a fresh penalty, provided such sanction is proportionate to the gravity of the established misconduct.

30. The present writ petition is allowed.

31. Pending application(s), if any shall disposed off.

20.04.2026

Meenu

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*