

CWP-22652 of 2023

CNR No: PHHC011297302023
2026:PHHC:123709



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-22652 of 2023

Constable Jasjeet Singh
.....Petitioner

Versus

State of Punjab and others
.....Respondents

Sr. No.	Particulars	Details
1.	The date when the judgment is reserved	19.08.2026
2.	The date when the judgment is pronounced	02.09.2026
3.	The date when the judgment is uploaded on the website	02.09.2026
4.	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Ms. Rakhi Sharma, Advocate,
for the petitioner.

Mr. Siddharth Sandhu, AAG, Punjab.

NAMIT KUMAR, J.

1. Instant petition has been filed under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of *certiorari* for quashing of order dated 28.04.2016 (Annexure P-9), passed by Senior Superintendent of Police, Patiala, vide which punishment of temporary forfeiture of one year sanctioned service for annual increment was imposed and period from 08.06.2015 to 01.09.2015 was ordered to be suspension period of the petitioner; order dated 04.05.2017 (Annexure P-10), passed by Deputy Inspector General of Police, Patiala Range, Patiala, vide which the appeal

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preferred by the petitioner against the order dated 28.04.2016 was rejected; order dated 26.03.2018 (Annexure P-11), passed by Inspector General of Police, Zonal-1, Punjab, Patiala, vide which the revision petition preferred by the petitioner was rejected; order dated 02.05.2023 (Annexure P-13), passed by Inspector General of Police, Patiala Range, Patiala, vide which the application of the petitioner for setting aside the suspension period and for fixing full salary and for resuming the service forfeited temporarily for one year, was dismissed and order dated 12.07.2023 (Annexure P-15), vide which the application of the petitioner for fixing seniority on the basis of Basic Proficiency Test-2016 was rejected. Further prayer has been made for issuance of a writ in the nature of *mandamus*, directing the respondents to restore/release all the benefits including full salary/increments for the suspension period from 08.06.2015 to 01.09.2015; directing the respondents to consider the case of the petitioner for entitling him for promotion/seniority at par with the Constables/employees entitled for seniority after passing the Basic Proficiency Test-2016, as the petitioner was deprived of his right to appear in the said test vide order dated 10.02.2016 (Annexure P-20), passed by respondent No.5, on the ground of pendency of departmental inquiry as well as FIR No.37 dated 08.06.2015 registered under Sections 223, 224, 225, 148, 149 IPC and Sections 25, 27/54/59 of Arms Act at Police Station Khalchian, District Amritsar (Annexure P-2), in which, the petitioner was declared innocent.

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2. Brief facts of the case, as have been pleaded in the petition are that the petitioner joined the Punjab Police as a Constable on 14.10.2011. On 08.06.2015, the petitioner, along with Head Constable Gurdeep Singh (officer in charge) and Head Constable Gurjant Singh, was deputed to escort undertrial prisoner Bhupinder Singh alias Sonu @ Kangla from Nabha Jail to the District Courts at Amritsar. After the prisoner was produced before the Court, the police party was returning to Nabha. On the way back, 8-9 persons armed with deadly weapons, intercepted the police vehicle at gunpoint, forcibly removed the prisoner from police custody; snatched the police weapons and escaped. The petitioner had no prior connection or connivance with the escaping accused. However, FIR No.37 dated 08.06.2015 under Sections 223, 224, 225, 148, 149 IPC and Sections 25, 27/54/59 of Arms Act was registered at Police Station Khalchian, District Amritsar, against petitioner along with Head Constable Gurdeep Singh (officer in charge) and Head Constable Gurjant Singh. The petitioner along with other officials, on their involvement in the aforesaid case was suspended w.e.f. 08.06.2015, vide order dated 20.06.2015 (Annexure P-3) and departmental proceedings were initiated against them. In a separate inquiry dated 28.01.2016 (Annexure P-16), conducted by the Deputy Superintendent of Police, Investigation, Amritsar Rural, the petitioner was found innocent. The report recorded that the petitioner had objected to travelling in a private vehicle and that the escape occurred due to the negligence of the other officials. The report was

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approved by the Senior Superintendent of Police, Amritsar Rural. In the departmental proceedings, charge sheet (Annexure P-4) was issued against the petitioner, to which detailed reply (Annexure P-5) was filed by the petitioner. After concluding the inquiry, final inquiry report dated 26.11.2015 (Annexure P-6) was submitted against the petitioner, whereby the petitioner was held guilty. In pursuance to the said inquiry report, show cause notice dated 03.03.2016 (Annexure P-7), along with copy of the inquiry report, was issued to the petitioner by the punishing authority i.e. respondent No.5. A detailed reply (Annexure P-8) to the said show-cause notice was submitted by the petitioner. Thereafter, vide order dated 28.04.2016 (Annexure P-9), the Senior Superintendent of Police, Patiala, imposed the punishment of temporary forfeiture of one year's sanctioned service for the purpose of annual increment and period from 08.06.2015 to 01.09.2015 was ordered to be treated as suspension period only. The petitioner's appeal and revision against the punishment order dated 28.04.2016, were dismissed vide orders dated 04.05.2017 (Annexure P-10) and 26.03.2018 (Annexure P-11) by respondents No.4 and 3 respectively. The petitioner was also denied the opportunity to appear in the Basic Proficiency Test, 2016, on the ground that a departmental inquiry and criminal case were pending against him. Subsequently, vide judgment of conviction and order of sentence dated 19.12.2022 (Annexure P-18), passed by the Court of learned Judicial Magistrate Ist Class, Baba Bakala Sahib, two companions of the petitioner i.e. Head Constable Gurdeep Singh



(officer in charge) and Head Constable Gurjant Singh were convicted and sentenced to undergo simple imprisonment for two years with fine of Rs.2,000/-, under Section 223 IPC. The petitioner was kept in the Column No.2 of the challan and he was not summoned as an accused and no finding of guilt was recorded against him. After the conclusion of the criminal proceedings, the petitioner approached the competent authorities for reconsideration of the punishment, restoration of increments and consideration of his claim for promotion. His applications were rejected vide orders dated 02.05.2023 (Annexure P-13) and 12.07.2023 (Annexure P-15), passed by respondents No. 3 and 2, respectively. Hence, the present petition.

3. Respondents have filed reply by way of affidavit of Harwant Kaur, PPS, Superintendent of Police, Headquarter, Patiala, on behalf of the respondents, stating therein as under: -

“8. That in reply to Para No.8 of the petition, it is submitted that aggrieved by the punishment order dated 28-04-2016 passed by the Senior Superintendent of Police, the petitioner preferred an appeal before the Deputy Inspector General of Police, Patiala Range, Patiala. After carefully examining the appeal of the petitioner, while considering all the facts and circumstances of the case, the appeal of the petitioner was rejected by the Deputy Inspector General of Police, Patiala Range, Patiala vide order dated 04-05-2017 (Annexure-P-10) as well as revision filed by the petitioner to the Director General of Police, Punjab, Chandigarh was also rejected after due consideration of the same by the competent authority vide order dated 26-03-2018 (Annexure-P-11).

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9. *That in reply to Para No.9 of the petition, it is submitted that the detailed submissions made in para no.8(supra) of the reply on merits may kindly be read as reply of this para and the same are not repeated herein for the sake of brevity.*

10. *That the contents of Para No.10 of the petition are incorrect, and hence denied. It is further submitted that the respondent No.3 had passed a detailed speaking order while rejecting revision petition of the petitioner. However, it is submitted that the Director General of Police, Punjab, Chandigarh has issued instruction vide letter No. 3208/E-1 dated 11-03-2011 and Standing Order No. 12/2010, wherein directions has been issued that those employee who have been awarded any major punishment preceding 03 years, they are not eligible to appear in Basic Proficiency Test (B-1 Test) and if any departmental enquiry/Vigilance enquiry or criminal case is pending and the charges have been framed against them and the employee having less than 03 years service are not eligible to appear in the Basic Proficiency Test (B-1 Test).*

It is pertinent to mention here that as per office record at that time one department inquiry was pending against the petitioner, as well as case FIR No.37 dated 08-06-2015 u/s 223,224,225,148,149 IPC and 25,27 of Arms Acts was registered at Police Station Khalchian District Amritsar. Therefore, the departmental inquiry was initiated against the petitioner by the then Senior Superintendent of Police, Patiala vide order No.3180-88/Steno-1 dated 20-06-2015. Copy of Charge Sheet was supplied to the petitioner by the inquiry officer, who duly received the same on 09-10-2015 and the inquiry officer had proved the charges against him on 26-11-2015

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in the Departmental inquiry. So, the petitioner was not eligible to appear in Basic Proficiency Test, which was conducted in the year 2016. In this regard detailed order dated 10-02-2016 (Annexure P-20) has been passed by the Senior Superintendent of Police, Patiala. It is also admitted that the application submitted by the petitioner was rejected by the respondent No.2 and 3 vide order dated 02-05-2023 (Annexure P-13) and order dated 12-07-2023 (Annexure P-15).

11. That in reply to Para No.11 of the petition, it is submitted that the detailed submissions made in para no.10 (supra) of the reply may kindly be read as reply of this para and the same are not repeated herein for the sake of brevity.

12. That the contents of Para No.12 of the petition are incorrect, hence denied. It is further submitted that the detailed submission made in para no.10 (supra) of the reply may kindly be read as reply of this para and the same are not repeated herein for the sake of brevity only.

13. That the contents of Para No.13 of the petition are incorrect, hence denied. It is further submitted that the petitioner was a member of escort party to produce the accused-Bhupinder Singh in the learned Court at Amritsar and while returning back, the accused escaped from the escort party including the petitioner, therefore, above noted case was registered at Police Station Khalchian, District Amritsar. Therefore, the petitioner cannot escape from his liability. Before passing the order of punishment against the petitioner, the proper due process was duly followed by the punishing authority and the petitioner was held guilty by the inquiry officer.

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14. *That the contents of Para No.14 of the petition are incorrect, hence denied. It is further submitted that the detailed submission made in para no.3 and 4 of the preliminary submissions of the reply may kindly be read as reply of this para and the same are not repeated herein for the sake of brevity.*

15. *That in reply to Para No.15 of the petition, it is submitted that departmental proceedings are entirely different from the Criminal case registered against an employee and whether an employee is convicted or acquitted in the criminal case, even then also departmental proceedings are binding upon the employee. However, reproduction of Rule 16.3 of the Punjab Police Rules, 1934 is a matter of record. In the judgment dated 19.12.2022 (Annexure P-18), the co-accused of the petitioner have been duly convicted by the learned trial court. Therefore, the petitioner being a member of escort party cannot escape from the departmental proceedings, which has been duly conducted as per procedure laid down.*

16. *That in reply to Para No.16 of the petition, it is submitted that the petitioner cannot escape from the departmental proceedings for his negligence, which has been duly conducted as per procedure laid down. The detailed position has been given in foregoing paras of this reply.*

17. *That in reply to Para No.17 of the petition, it is submitted that the petitioner cannot escape from the departmental proceedings for his negligence, which has been duly conducted as per procedure laid down. Rules reproduced are a matter of record. The detailed position has been given in foregoing paras of this reply.*

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18. That the contents of Para No.18 of the petition are incorrect, hence denied. It is further submitted that an accused cannot use a private vehicle for conveyance, which means, accused-Bhupinder Singh had preplanned to escape from the police custody and the escort party including the petitioner were fully responsible for the same.”

4. Learned counsel for the petitioner contended that the authorities failed to take into consideration that during investigation in case FIR No.37 dated 08.06.2015, petitioner was found innocent and it was on that count that he was kept in column No.2. She has further contended that the impugned order of punishment dated 28.04.2016 (Annexure P-9), passed by respondent No.5 – Senior Superintendent of Police, Patiala, is against the principles of natural justice, as he was not given an opportunity of personal hearing before passing the order. She has further submitted that two police officials were found guilty by the trial Court and were convicted, whereas, petitioner was never summoned by the trial Court, therefore, impugned order of punishment is liable to be set aside.

5. *Per contra*, learned State counsel has defended the impugned orders passed by the authorities by contending that departmental proceedings are different from criminal proceedings. He further submitted that the punishment has been imposed upon the petitioner after following due procedure of law. He further submitted that there is considerable delay in filing the present petition as the last statutory revision petition was rejected vide order dated 26.03.2018

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(Annexure P-11). Therefore, instant petition filed by the petitioner warrants no interference by this Court and is liable to be dismissed.

6. I have heard learned counsel for the parties and perused the record.

7. Admittedly, FIR No.37 dated 08.06.2015 was registered against the petitioner and two others police officials on account of escape of undertrial Bhupinder Singh alias Sonu @ Kangla from police custody. Though, petitioner was kept in column No.2, while two other police officials were found guilty and convicted by learned trial Court, vide judgment of conviction and order of sentence dated 19.12.2022. However, in departmental proceedings, vide order dated 28.04.2016 (Annexure P-9), passed by Senior Superintendent of Police, Patiala, punishment of temporary forfeiture of one year sanctioned service for annual increment was imposed and period from 08.06.2015 to 01.09.2015 was ordered to be treated as suspension period only of the petitioner; vide order dated 04.05.2017 (Annexure P-10), passed by Deputy Inspector General of Police, Patiala Range, Patiala, appeal preferred by the petitioner against the order dated 28.04.2016 was rejected; vide order dated 26.03.2018 (Annexure P-11), passed by Inspector General of Police, Zonal-1, Punjab, Patiala, revision petition preferred by the petitioner was rejected; vide order dated 02.05.2023 (Annexure P-13), passed by Inspector General of Police, Patiala Range, Patiala, application of the petitioner for setting aside the suspension period and further relief was rejected and vide order dated 12.07.2023



(Annexure P-15), application of the petitioner for fixing seniority on the basis of Basic Proficiency Test-2016 was rejected.

8. The record indicates that disciplinary proceedings were initiated against the petitioner in respect of the alleged negligence. The petitioner was informed of the allegations, was afforded an opportunity to submit his explanation/defence, and the competent authority considered the material available on record before arriving at its conclusion. The prescribed procedure was followed at the relevant stages, and the petitioner was given adequate opportunity to put forth his case. Petitioner has failed to point out any procedural lapse on the part of the disciplinary authority.

9. The contention of the learned counsel for the petitioner that name of the petitioner was kept in column No.2 in the FIR, therefore, he should not have been punished by the department, is not acceptable, as criminal proceedings and departmental proceedings operate in different fields and require different standard of proof. The object of a criminal prosecution is to determine whether the accused has committed an offence punishable under the criminal law, whereas departmental proceedings are concerned with the conduct of an employee and the question whether such conduct amounts to misconduct or dereliction of official duty warranting disciplinary action. In *State of Rajasthan v. B.K. Meena, (1996) 6 SCC 417*, the Supreme Court recognized that there is no absolute bar against simultaneous criminal and departmental proceedings. Likewise, in



Nelson Motis v. Union of India, (1992) 4 SCC 711, it was held that the nature and scope of a criminal case is different from those of departmental disciplinary proceedings and that an order in the criminal proceedings does not, by itself, conclude the departmental proceedings. The said principle has subsequently been reiterated by the Supreme Court. Further, the conviction of other two co-accused of the petitioner is in no way helpful to the petitioner, as he was already in column No.2, rather he was a member of the escort party, therefore, he cannot escape from departmental proceedings.

10. The jurisdiction of this Court under Article 226 of the Constitution is not an appellate jurisdiction over the findings recorded by the disciplinary authority. The scope of judicial review in disciplinary matters is limited. The Court is primarily concerned with the decision-making process and not with re-appreciating the evidence as if it were exercising appellate jurisdiction. Interference may be warranted where the proceedings have been conducted in violation of statutory rules or principles of natural justice; where the authority lacked jurisdiction; where the finding is based on no evidence; or where the punishment is shockingly disproportionate to the misconduct. No such exceptional circumstance has been established in the present case. A mere assertion of procedural irregularity, without identifying the particular mandatory requirement which was violated and the prejudice thereby caused, cannot furnish a ground for exercising the extraordinary writ jurisdiction of this Court. As regards the quantum of



punishment, the impugned order records that the competent authority, after considering the facts and circumstances of the case, imposed the penalty of forfeiture of one year's sanctioned service for the purpose of annual increment. The punishment imposed is one prescribed under the applicable service/disciplinary framework. There is nothing on record to suggest that the authority acted for an extraneous purpose, with mala fide intention, or in a manner wholly disproportionate to the nature of the misconduct established against the petitioner. The power of judicial review does not extend to substituting the Court's own view regarding the appropriate punishment merely because another penalty might also have been possible. The disciplinary authority is ordinarily the appropriate authority to determine the penalty, subject to the limited parameters of judicial review. Unless the punishment is so disproportionate that it shocks the conscience of the Court, interference is not warranted. In the present case, the impugned order cannot be said to be arbitrary or without application of mind. The competent authority considered the matter in accordance with the applicable procedure and imposed the penalty after affording the petitioner an opportunity of being heard. The petitioner has not been able to establish violation of any mandatory procedural safeguard or any denial of reasonable opportunity.

11. The Hon'ble Supreme Court in ***State of Andhra Pradesh and others v. S. Sree Rama Rao, AIR 1963 Supreme Court 1723*** has held that the High Court is not a Court of appeal to examine the merits



of the findings recorded in a departmental inquiry and the power of judicial review is confined to examining whether the inquiry was conducted by a competent authority in accordance with the prescribed procedure and whether the principles of natural justice were followed.

12. The Hon'ble Supreme Court in ***Union of India and others v. P. Gunasekaran, 2015(1) SCT 5***, while considering the scope of interference under Articles 226/227 of the Constitution of India has held as under: -

“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.

*14. In one of the earliest decisions in **State of Andhra Pradesh and others v. S. Sree Rama Rao, AIR 1963 Supreme Court 1723**, many of the above principles have been discussed and it has been concluded thus :*

"7. ... The High Court is not constituted in a proceeding under Article 226 of the Constitution a

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court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a



matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution."

15. In ***State of Andhra Pradesh and others v. Chitra Venkata Rao***, (1975)2 SCC 557, the principles have been further discussed at paragraph-21 to 24, which read as follows :

*"21. The scope of Article 226 in dealing with departmental inquiries has come up before this Court. Two propositions were laid down by this Court in **State of A.P. v. S. Sree Rama Rao**. First, there is no warrant for the view that in considering whether a public officer is guilty of misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court must be applied. If that rule be not applied by a domestic tribunal of inquiry the High Court in a petition under Article 226 of the Constitution is not competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not a court of appeal under Article 226 over the decision of the authorities holding a departmental enquiry against a public servant. The Court is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Second, where there is some evidence which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably*



support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court to review the evidence and to arrive at an independent finding on the evidence. The High Court may interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. The departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there is some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226.

22. Again, this Court in **Railway Board, representing the Union of India, New Delhi v. Niranjana Singh** said that the High Court does not interfere with the conclusion of the disciplinary authority unless the finding is not supported by any evidence or it can be said that no reasonable person could have reached such a finding. In **Niranjana Singh** case this Court held that the High Court exceeded its powers in interfering with the findings



of the disciplinary authority on the charge that the respondent was instrumental in compelling the shut-down of an air compressor at about 8.15 a.m. on May 31, 1956. This Court said that the Enquiry Committee felt that the evidence of two persons that the respondent led a group of strikers and compelled them to close down their compressor could not be accepted at its face value. The General Manager did not agree with the Enquiry Committee on that point. The General Manager accepted the evidence. This Court said that it was open to the General Manager to do so and he was not bound by the conclusion reached by the committee. This Court held that the conclusion reached by the disciplinary authority should prevail and the High Court should not have interfered with the conclusion.

23. The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The Court exercises it not as an appellate court. The findings of fact reached by an inferior court or tribunal as a result of the appreciation of evidence are not 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 a tribunal, a writ 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. Again

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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. A finding of fact recorded by the Tribunal cannot be challenged on the ground that the relevant and material evidence adduced before the Tribunal is insufficient or inadequate to sustain a 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.

See Syed Yakoob v. K.S. Radhakrishnan.

24. The High Court in the present case assessed the entire evidence and came to its own conclusion. The High Court was not justified to do so. Apart from the aspect that the High Court does not correct a finding of fact on the ground that the evidence is not sufficient or adequate, the evidence in the present case which was considered by the Tribunal cannot be scanned by the High Court to justify the conclusion that there is no evidence which would justify the finding of the Tribunal that the respondent did not make the journey. The Tribunal gave reasons for its conclusions. It is not possible for the High Court to say that no reasonable person could have arrived at these conclusions. The High Court reviewed the evidence, reassessed the evidence and then rejected the evidence as no evidence. That is precisely what the High Court in exercising jurisdiction to issue a writ of certiorari should not do."

These principles have been succinctly summed-up by the living legend and centenarian Justice V. R. Krishna Iyer in



State of Haryana and another v. Rattan Singh, (1977) 2 SCC 491. To quote the unparalleled and inimitable expressions:

"4. in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and Administrative Tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act. For this proposition it is not necessary to cite decisions nor text books, although we have been taken through case-law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good. ..."

13. To the similar effect is the judgment of the Hon'ble Supreme Court in ***Central Industrial Security Force and others v. Abrar Ali, 2017(1) SCT 682***, wherein it has been held as under: -

"8. Contrary to findings of the Disciplinary Authority, the High Court accepted the version of the Respondent that he fell ill and was being treated by a local doctor without



*assigning any reasons. It was held by the Disciplinary Authority that the Unit had better medical facilities which could have been availed by the Respondent if he was really suffering from illness. It was further held that the delinquent did not produce any evidence of treatment by a local doctor. The High Court should not have entered into the arena of facts which tantamounts to re-appreciation of evidence. It is settled law that re-appreciation of evidence is not permissible in the exercise of jurisdiction under Article 226 of the Constitution of India. In **State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaiya reported in 2011(2) S.C.T. 782 : 2011(3) Recent Apex Judgments (R.A.J.) 28 : (2011) 4 SCC 584**, this Court held as follows:*

"7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic inquiry, nor interfere on the ground that another view is possible on the material on record. If the inquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of



*natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide **B.C. Chaturvedi v. Union of India, 1996(1) S.C.T. 617 : (1995) 6 SCC 749 : 1996 SCC (L&S) 80 : (1996) 32 ATC 44, Union of India v. G. Ganayutham, 1997(4) S.C.T. 214 : (1997) 7 SCC 463 : 1997 SCC (L&S) 1806, Bank of India v. Degala Suryanarayana, 1999(3) S.C.T. 669 : (1999) 5 SCC 762 : 1999 SCC (L&S) 1036 and High Court of Judicature at Bombay v. Shashikant S. Patil."***

The said view has been reiterated by the Hon'ble Supreme Court in **Deputy General Manager (Appellate Authority) and others v. Ajai Kumar Srivastava, 2021(1) SCT 285** and in the said judgment it has been held as under: -

*"23. The power of judicial review in the matters of disciplinary inquiries, exercised by the departmental/appellate authorities discharged by constitutional Courts under Article 226 or Article 32 or Article 136 of the Constitution of India is circumscribed by limits of correcting errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice and it is not akin to adjudication of the case on merits as an appellate authority which has been earlier examined by this Court in **State of Tamil Nadu v. T.V. Venuaopalan, 1994(6) SCC 302** and later in **Government of T.N. and Another v. A. Rajapandian, 1995(1) SCC 216** and further examined by the three Judge Bench of this Court in **B.C. Chaturvedi v. Union of India and Others, 1995(6) SCC 749** wherein it has been held as under:-*



*"13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappreciate the evidence or the nature of punishment. In a disciplinary enquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In **Union of India v. H.C. Goel [(1964) 4 SCR 718]** this Court held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued."*

*24. It has been consistently followed in the later decision of this Court in **Himachal Pradesh State Electricity Board Limited v. Mahesh Dahiya, 2017(1) SCC 768** and recently by the three Judge Bench of this Court in **Pravin Kumar v. Union of India and Others, 2020(9) SCC 471**.*

25. It is thus settled that the power of judicial review, of the Constitutional Courts, is an evaluation of the decision-making process and not the merits of the decision itself. It is to ensure fairness in treatment and not to ensure fairness of conclusion. The Court/Tribunal may interfere in the proceedings held against the delinquent if it is, in any manner, inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached or where the conclusions upon



consideration of the evidence reached by the disciplinary authority is perverse or suffers from patent error on the face of record or based on no evidence at all, a writ of certiorari could be issued. To sum up, the scope of judicial review cannot be extended to the examination of correctness or reasonableness of a decision of authority as a matter of fact.

26. When the disciplinary enquiry is conducted for the alleged misconduct against the public servant, the Court is to examine and determine: (i) whether the enquiry was held by the competent authority; (ii) whether rules of natural justice are complied with; (iii) whether the findings or conclusions are based on some evidence and authority has power and jurisdiction to reach finding of fact or conclusion.

27. It is well settled that where the enquiry officer is not the disciplinary authority, on receiving the report of enquiry, the disciplinary authority may or may not agree with the findings recorded by the former, in case of disagreement, the disciplinary authority has to record the reasons for disagreement and after affording an opportunity of hearing to the delinquent may record his own findings if the evidence available on record be sufficient for such exercise or else to remit the case to the enquiry officer for further enquiry.

28. It is true that strict rules of evidence are not applicable to departmental enquiry proceedings. However, the only requirement of law is that the allegation against the delinquent must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at a finding upholding the gravity of the charge against the delinquent employee. It is



true that mere conjecture or surmises cannot sustain the finding of guilt even in the departmental enquiry proceedings.

29. The Constitutional Court while exercising its jurisdiction of judicial review under Article 226 or Article 136 of the Constitution would not interfere with the findings of fact arrived at in the departmental enquiry proceedings except in a case of malafides or perversity, i.e., where there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at that findings and so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained.”

14. Furthermore, this petition falls flat on the ground of limitation as well inasmuch as statutory revision petition of the petitioner against the punishment order was rejected by the revisional authority, vide order dated 26.03.2018 (Annexure P-11), whereas instant petition has been preferred in the year 2023, i.e. after a lapse of more than five years.

15. The Hon’ble Supreme Court in ***Yunus (Baboobhai) A Hamid Padvekar Vs. State of Maharashtra Through its Secretary and others : 2009 (2) SCT 24***, while referring to the issue of delay and laches, had held as follows:-

“8. Delay or laches is one of the factors which is to be borne in mind by the High Courts when they exercise their discretionary powers under Article 226 of the Constitution of India, 1950 (in short the ‘Constitution’). In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as



taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in **Durga Prasad v. Chief Controller of Imports and Exports (AIR 1970 Supreme Court 769)**. Of course, the discretion has to be exercised judicially and reasonably.

9. What was stated in this regard by Sir Barnes Peacock in **Lindsay Petroleum Company v. Prosper Armstrong Hurde etc., (1874) 5 PC 221** at page 239 was approved by this Court in **Moon Mills Ltd. v. Industrial Courts, (AIR 1967 SC 1450)** and **Maharashtra State Transport Corporation v. Balwant Regular Motor Service (AIR 1969 Supreme Court 329)**, Sir Barnes had stated:

"Now the doctrine of laches in Courts of Equity is not an arbitrary or technical doctrine. Where it would be practically unjust to give a remedy either because the party has, by his conduct done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, if founded upon mere delay, that delay of course not amounting to a bar by any statute of limitation, the validity of that defence must be tried upon principles substantially equitable. Two circumstances always important in such cases are, the length of the delay and the nature of the acts done during the interval which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy."

10. It would be appropriate to note certain decisions of this Court in which this aspect has been dealt with in relation with Article 32 of the Constitution. It is apparent that what has been stated as regards that Article would apply, a fortiori, to Article 226. It was observed in **R.N Bose v. Union of India (AIR 1970 Supreme Court 470)** that no relief can be given to the petitioner who without any reasonable explanation approaches this Court under Article



32 after inordinate delay. It was stated that though Article 32 is itself a guaranteed right, it does not follow from this that it was the intention of the Constitution makers that this Court should disregard all principles and grant relief in petitions filed after inordinate delay.

*11. It was stated in **State of M.P. v. Nandlal (AIR 1987 Supreme Court 251)** that the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring in its trail new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction.*

12. In view of the aforesaid position we are not inclined to interfere in this appeal which is dismissed accordingly.”

16. A Division Bench of Supreme Court recently in ‘**Mrinmoy Maity Vs. Chhanda Koley and others**’ 2024 SCC OnLine SC 551 has held that High Court ought to dismiss petition on the ground of delay and laches where there is no explanation of delay. An applicant who approaches the Court belatedly or in the other words sleeps over his rights for a considerable period ought not to be granted the extraordinary relief by writ Courts. Delay defeats equity. High Court may refuse to invoke its writ jurisdiction if laxity on the part of



applicant has allowed the cause of action to drift away and attempts are made to rekindle the lapsed cause of action. Multiple communications cannot create cause of action. The relevant extracts of the judgment are reproduced as below:

“9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been non-suited or in other words writ petition ought to have been dismissed on the ground of delay and latches itself. An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or latches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.

10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a

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straight jacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.

11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and latches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and latches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and latches on the part of the applicant in approaching a writ court.”

17. In view of the abovesaid discussion and the settled legal position of law, finding no merit in the present petition, the same is hereby dismissed with no order as to costs.

02.09.2026
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No