

2025:PHHC:089639



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

211

CWP-2835-2017 (O&M).
Date of Decision: 21.07.2025.

DHANNA SINGH

... Petitioner(s)

Versus

STATE BANK OF INDIA AND OTHERS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Ms. Savita Bhandari, Advocate,
(Through Video Conference)
for the petitioner.

Mr. Anil Kumar Ahuja, Advocate,
for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

Aggrieved of the penalty imposed by the respondents directing stoppage of 05 annual increments, the instant writ petition has been instituted.

2 Learned counsel appearing on behalf of the petitioner contends that the petitioner was appointed as a clerk-cum-cashier on 27.07.1999 at State Bank of Patiala under Ex-Serviceman quota. Counsel contends that the respondents initiated disciplinary proceedings levelling three charges, on 18.07.2001, against the petitioner. The charges are extracted thus: -

2025:PHHC:089639



“i. The 1st charge alleged that he did not return the excess amount of Rs 1000/- on dated 20-12-00 to a customer Sukhdev Singh.

ii. The 2nd charge was that on dt. 08-09-00, he did not return excess Rs 100/- deposited by said Harbans Lal Sharma to check him.

iii. The 3rd charge alleged that he did not accept Rs 50,000/- from the customer against voucher of 40,000/- inspite of the intervention of the manager Harbans Lal.”

3 It is submitted that the 1st charge was withdrawn on the same day on the ground that it arose out of misunderstanding and the enquiry proceedings were undertaken for remaining two charges, however, even though the appellate authority dropped charge No.3 against the petitioner, yet, the punishment of stoppage of 05 increments with future effect was retained and not modified.

4 It has been further vehemently argued by the counsel for the petitioner that the charge in the present case pertains to non-refund of the excess amount that had been handed over to the petitioner by different persons, however, as per the banking transactions, the amount received by an individual is tallied at the end of the working day and the excess amount is to be returned only after such a tally is done. In the case of the petitioner, without awaiting of

2025:PHHC:089639



the closing of the financial transactions on a given day, the charges have been levelled about non-refund of the excess amount handed over by the customers as well as the branch manager of the Branch. Hence, the proceedings against the petitioner were pre-mature and the petitioner has been wrongly held liable for the acts for which there was no occasion for him to establish his defence.

5 Counsel appearing on behalf of the respondents, however, submits that the present writ petition is not maintainable and is liable to be dismissed. He contends that the branch manager (where the petitioner was posted) received numerous complaints that the petitioner was in the habit of making less payments and not returning the excess amount received by him from the customers of the respondent bank while working on the cash counter. Accordingly, the disciplinary proceedings were initiated against him on receipt of the complaints from the customers. In the disciplinary proceedings initiated, it was established from the testimony of the witnesses produced on record that he received Rs.12,000/- against the pay-in-slip of Rs.11,000/- for credit to the account of M/s Sukhdev Singh and sons but did not return the excess cash of Rs.1,000/- to the depositor. To check his honesty and credibility, the Branch Manager Harbans Lal also deposited Rs.2,100/- against pay in slip of Rs.2000/- and even in the said scenario, the petitioner did not return the excess of Rs.100/- that were handed over by the Branch Manager.

6 He submits that the aforesaid excess amount unlawfully retained by the petitioner had been recovered from him. The proven charges were of serious proportions establishing financial irregularities and reflecting poor integrity by the petitioner. A bank cashier who is dealing with the money of

2025:PHHC:089639



the customers is expected to exercise higher standards of honesty and integrity. Any failure on his part has immense potential of damaging the reputation of the bank and also exposes the bank to the possibility of immense potential financial loss over a long period of time. He submits that disciplinary proceedings were hence initiated against the petitioner wherein the witnesses deposed in support of the charges that had been levelled against the petitioner. The same thus resulted in proving the charges against the petitioner whereupon the punishing authority afforded an opportunity of hearing and imposed the punishment of stoppage of 05 increments. Aggrieved thereof, the petitioner preferred an appeal before the Appellate Authority and vide order dated 24.08.2002 the said appeal was also dismissed. It is submitted that the petitioner thereafter filed CWP-4148 of 2003 before this Court challenging the said orders. The aforesaid writ petition was withdrawn by the petitioner by moving CM-16778-2007 to approach the respondent bank by way of a mercy appeal.

7 The petitioner never sought any further liberty to file any fresh petition from this Court in the application and was not granted such liberty by the final order that was so passed. The averments as contained in the application seeking withdrawal of CWP-4184 of 2003 reads thus:-

“1. That the above titled Civil Writ Petition stand admitted by this Hon'ble Court on 9.1.2004, which is still pending before this Hon'ble Court.

2. That the petitioner made oral request to the respondent Bank for the release of increments, which was not accepted due to the pendency of present writ petition. Now the petitioner wants to

2025:PHHC:089639



make mercy appeal to the Respondent Bank for the relief mentioned above. Therefore, the petitioner wants to withdraw the above mentioned writ petition.

It is, therefore, prayed that the petitioner may kindly be permitted to withdraw the above mentioned writ petition in the interest of justice.”

8 The order dated 09.10.2007, passed in CWP-4148-2003 reads thus: -

“Permod Kohli, J: (Oral)

This is an application seeking to withdraw the writ petition.

Prayer is allowed.

The Civil Writ Petition is dismissed as withdrawn.

Oct 09,2007

Sd/-"

*(Permod Kohli)
Judge”*

9 Counsel contends that the petitioner later filed the mercy petition on 12.03.2009 i.e. after nearly 1½ years of the dismissal of the earlier writ petition. The instant writ petition has now been filed after a period of more than 08 years since then i.e. in the year 2017. He submits that the respondents specifically submitted in the reply that there was no remedy of mercy petition, 2nd appeal, review or revision under the applicable rules or bipartite settlement against orders passed by the Appellate Authority, in exercise of its quasi-judicial functions. Such intimation had been sent to the petitioner on 16.12.2015. It is averred that the petitioner having withdrawn the earlier writ petition, without obtaining any liberty would be estopped from filing the

2025:PHHC:089639



instant writ petition as the same would be barred under Order 23 Rule 1 CPC. He contends that the specific averments and objections in this regard has not been responded to by the counsel for the petitioner by filing any document or replication.

10 Counsel for the respondents further contends that the power of judicial review can be exercised by this Court only with respect to the process of decision making and not as a power to substitute the final decision arrived at by the disciplinary authority. He contends that the satisfaction of the employer in relation to the disciplinary proceedings and final punishment being imposed cannot be substituted by this Court if there is no specific finding recorded with respect to the procedural violation for conducting inquiry or to the procedure adopted by the authorities in imposing the penalty. Once the procedure prescribed in law has been followed and strictly adhered to, the quantum of punishment would not be altered unless the punishment imposed is shockingly disproportionate. He contends that considering the gravity of the charges established against the petitioner, the punishment of stoppage of 05 increments with future effect cannot be said to be disproportionate. He places reliance on the judgment of Hon'ble Supreme Court titled *State of Andhra Pradesh and Others v S. Sree Rama Rao, AIR 1963 SC 1723* in support of his argument.

11 Learned counsel for the petitioner contends that since charge No.3 against the petitioner had been dropped by the appellate authority, hence, the proceedings became in the nature of minor proceedings and major penalty could not have been imposed.

2025:PHHC:089639



12 I have heard the learned counsel appearing for the respective parties and have gone through the documents appended along with the present petition.

13 It is not in dispute that while charges No.1 and 2 pertain to financial irregularities against the petitioner, charge No.3 was only a charge pertaining to insubordination and the petitioner having refused to accept more cash than what had been filled in the cash voucher. The Appellate Authority accepted the argument of the petitioner and held that the Branch Manager was not justified in issuing a direction to the teller to accept more amount as mentioned in the pay in slip and thereafter to return the excess balance. The conduct of the petitioner in refusing to accept more amount than what had been filled up in the cash voucher was hence held to be justified. However, the findings recorded as regards the financial embezzlement and misconduct on the part of the petitioner and non-refunding of the excess amount, which such charge stood established by recovery of the excess money from the possession of the petitioner have remained intact. The grave charge or misconduct still continues to sustain.

14 Even though the petitioner had argued that charge No.1 was withdrawn for having been wrongly framed, however, the said argument is incorrect and found to be false on its verification from the record. The petitioner chose not to attach the Enquiry report but the same has been appended by the respondents along with their reply. It is proved by the Inquiry Officer that the excess amount of Rs.1,000/- deposited by customer

2025:PHHC:089639



was allegedly retained and it was only with the intervention of the Bank Staff that the same was returned. The Head Cashier R.S. Kansal, appeared as a witness and testified that an excess cash of Rs.1,000/- was found in the receipt cash of the petitioner on the checking being got done under the orders of the Branch Manager, to whom the customer had submitted the complaint. The customer had informed that the 120 notes of Rs.100 denomination were marked 'SS' to deposit in his current account and all of the said currency notes with the distinct identification mark of 'SS' was recovered, sealed and later kept in the strong room. It was also informed that if amount becomes untraceable, it gets deposited in the "Sundry deposit account.' The Deputy Manager, the Chief Manager, the Account Holder Sukhdev Singh, his Munim Prem Chand and others appeared during the proceedings and got recorded their statements. Relying upon the corroborative and well explained testimony, the said charge had been duly proved. It is also evident that the Branch Manager himself got a sting done on the petitioner and at that time, he did not return the excess amount of Rs.100/-. The identification of the currency note was done from the unique number. All witnesses deposed to prove the said charge as well. Hence, two well illustrated and proven charges of financial misconduct at different intervals stood proved. They further indicate an incorrigible stance of the petitioner and his continued failure to improve his integrity and conduct.

2025:PHHC:089639



15 It does not flow from the departmental rules that a person cannot be held guilty of major charge unless a specific minimum number of charges or misconduct are established. The gravity of the charge or misconduct is to be seen. It is not that a case of financial embezzlement or misconduct does not fall under a major offence for which a major punishment cannot be imposed. The nature of allegations displayed dishonesty, lack of integrity and lack of financial standards being maintained is well established and the punishment of major penalty cannot be said to be unsustainable.

16 The Hon'ble Supreme Court has ruled through a catena of judgments that the High Court would not sit in appeal over the judgment of the disciplinary authority. Reference can be made to the judgment of Hon'ble Supreme Court in the matter of State of Andhra Pradesh and others Vs. Chitra Venkata Rao, reported as AIR 1975 SC 2151. The relevant extract of the same reads thus: -

“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

2025:PHHC:089639



admissible evidence, which has influenced the impugned finding. Again 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 & ors. 1963 (5) S.C.R 64.

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, re-assessed 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.”*

2025:PHHC:089639



17 The position in law was reiterated by the Hon'ble Supreme Court in the case of **Union of India Vs. Parma Nand, reported as AIR 1989 SC 1185**, which is extracted as under: -

“26. So much is, we think, established law on the scope of jurisdiction and the amplitude of powers of the Tribunal. However, of late we have been receiving a large number of appeals from the orders of Tribunals- Central and States- complaining about the interference with the penalty awarded in the disciplinary proceedings. The Tribunals seem to take it within their discretion to interfere with the penalty on the ground that it is not commensurate with the delinquency of the official. The law already declared by this Court, which we reiterate, makes it clear that the Tribunals have no such discretion or power.

27. We must unequivocally state that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. It is appropriate to remember that the power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for

2025:PHHC:089639



that of the authority. The adequacy of penalty unless it is mala fide is certainly not a matter for the Tribunal to concern with. The Tribunal also cannot interfere with the penalty if the conclusion of the Inquiry Officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter.”

18 For reference as to the scope of interference by the High Court in departmental proceedings, the Hon'ble Supreme Court held in the matter of Chairman and Managing Director, United Commercial Bank and others Vs. P.C. Kakkar, reported as (2003) 4 SCC 364, as under: -

“9. In B.C. Chaturvedi v. Union of India [(1995) 6 SCC 749 : 1996 SCC (L&S) 80 : (1996) 32 ATC 44] it was observed : (SCC p. 762, para 18)

18. A review of the above legal position would establish that the disciplinary authority, and on appeal the Appellate Authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the Appellate Authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate

2025:PHHC:089639



authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof.

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11. *The common thread running through in all these decisions is that the court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Wednesbury case [Associated Provincial Picture Houses Ltd. v. Wednesbury Corp., (1948) 1 KB 223 : (1947) 2 All ER 680 (CA)] the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision.*

12. *To put it differently, unless the punishment imposed by the disciplinary authority or the Appellate Authority shocks the conscience of the court/tribunal, there is no scope for interference. Further, to shorten litigation it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof. In the normal course if the punishment imposed is shockingly disproportionate it would be appropriate to direct the disciplinary authority or the Appellate Authority to reconsider the penalty imposed.*

xxx xxx xxx

2025:PHHC:089639



14. *A bank officer is required to exercise higher standards of honesty and integrity. He deals with the money of the depositors and the customers. Every officer/employee of the bank is required to take all possible steps to protect the interests of the bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a bank officer. Good conduct and discipline are inseparable from the functioning of every officer/employee of the bank. As was observed by this Court in *Disciplinary Authority-cum-Regional Manager v. Nikunja Bihari Patnaik* [(1996) 9 SCC 69 : 1996 SCC (L&S) 1194] it is no defence available to say that there was no loss or profit resulted in case, when the officer/employee acted without authority. The very discipline of an organization more particularly a bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and is a misconduct. The charges against the employee were not casual in nature and were serious. These aspects do not appear to have been kept in view by the High Court.*

15. *It needs no emphasis that when a court feels that the punishment is shockingly disproportionate, it must record reasons for coming to such a conclusion. Mere expression that the punishment is shockingly disproportionate would not meet the requirement of law. Even in respect of administrative orders Lord Denning, M.R. in ***Breen v. Amalgamated Engg. Union*** [(1971) 1 All ER 1148: (1971) 2 QB 175: (1971) 2 WLR 742 (CA)] observed: (All ER p. 1154h) “The giving of reasons is one of the fundamentals of good administration.”*

2025:PHHC:089639



In Alexander Machinery (Dudley) Ltd. v. Crabtree [1974 ICR 120 (NIRC)] it was observed:

“Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at.” Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the “inscrutable face of the sphinx”, it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking-out. The “inscrutable face of a sphinx” is ordinarily incongruous with a judicial or quasi-judicial performance. But as noted above, the proceedings commenced in 1981. The employee was placed under suspension from 1983 to 1988 and has superannuated in 2002. Acquittal in the criminal case is not determinative of the commission of misconduct or otherwise, and it is open to the authorities to proceed with the disciplinary proceedings, notwithstanding acquittal in the criminal case. It per se would not entitle the employee to claim immunity from the proceedings. At the most the factum of acquittal may be a circumstance to be considered while awarding punishment. It would depend upon the facts of

2025:PHHC:089639



each case and even that cannot have universal application.”

19 Further reference can also be made to the judgment in the matter of **Union of India and others Vs. P. Gunasekaran, reported as (2015) 2 SCC 610.** The relevant extract reads thus: -

“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;*

2025:PHHC:089639



- 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.*

20 It is also held in the judgment of **Civil Appeal No.219 of 2023 titled as Union of India and others vs. Const. Sunil Kumar, decided on 19.01.2023** passed by Hon'ble Supreme Court that it is not sufficient for a writ Court to interfere when a punishment is disproportionate. For invoking

2025:PHHC:089639

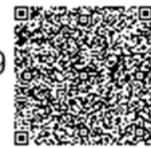


the jurisdiction, the punishment has to be 'shockingly disproportionate'.

The relevant extract reads thus: -

“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

2025:PHHC:089639



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.”

21 Although an attempt has been made by counsel for the petitioner at this juncture to contend that the petitioner was never held guilty of any misconduct at any point prior in time, however, the same alone cannot be a ground to hold that the current misconduct ought to be diluted and proceedings ought not to be initiated against him.

22 Undisputedly, such service record would be relevant for examining the proportionality of the punishment imposed upon the petitioner, however, the same cannot be held to lay sufficient foundation for disregarding the charges that already stand proved against a person. Since the punishment of stoppage of 05 increments only has been imposed, I feel

2025:PHHC:089639



that the previous misconduct would have already been taken into consideration by the respondent authorities while imposing punishment. There is no occasion for this Court to come to a conclusion or record a finding that the punishment of stoppage of 05 increments in a proven case of financial irregularities and dishonest misconduct on the part of the petitioner is shocking to the conscience of this Court. Besides, the other issues being raised, at this stage with respect to the malice against other co-employees, the same is ignored being completely irrelevant to the controversy in hand and is an argument beyond the record.

23 The instant writ petition is thus found to be lacking merit and the same is accordingly dismissed.

July 21, 2025.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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