



1032 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-18776-2009 (O&M)
Reserved on: 27.11.2025
Pronounced on: 02.12.2025

Ishwar Singh

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. R.K. Malik Senior Advocate with
Mr. Bhupinder Malik, Advocate for the petitioner.

Ms. Rajni Gupta, Addl. A.G., Haryana.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of orders dated 18.01.2008, 14.03.2008 and 07.02.2009 whereby he was dismissed from service.

2. The petitioner joined Haryana Police Force as Constable on 14.11.1975. He was promoted from time to time. He was posted as Assistant Sub Inspector (**ASI**) at Police Station, Sector-5, Panchkula on 15.02.2006. He came to be arrested alleging commission of offence punishable under Prevention of Corruption Act, 1988 (for short 'P.C. Act'). FIR No.01 dated 15.02.2006 under Sections 7 and 13 of P.C. Act was registered against him. He was suspended vide order dated 18.02.2006. He was issued charge sheet and Deputy Superintendent of Police, Panchkula (**DSP**) was appointed as Inquiry Officer who in his report dated 29.12.2007 declared the petitioner guilty of demanding and

accepting bribe from Shri Avinash Kumar S/o Shri Moti Lal, resident of House No.126, New Hamida Colony, Yamunanagar. The Inquiry Officer placed the matter before Superintendent of Police (**SP**) who issued a show cause notice to the petitioner calling upon to show cause as to why he should not be dismissed from service. The petitioner filed reply to said show cause notice. The Disciplinary Authority-SP vide order dated 18.01.2008 dismissed him from service. He preferred an appeal which came to be dismissed by Appellate Authority. He preferred revision which also came to be dismissed by Director General of Police (**DGP**).

3. Learned counsel representing the petitioner submits that impugned orders are bad and deserve to be set aside on following counts:

(i) The SP was not Competent Authority to pass impugned order. The Appointing Authority of petitioner was Deputy Inspector General of Police (**DIG**), thus, dismissal order could be passed by DIG;

(ii) The department initiated inquiry without seeking approval of District Magistrate as envisaged under Rule 16.38 of PPR. Prior permission was mandatory;

(iii) The Inquiry Officer and Disciplinary Authority were two different authorities. The Disciplinary Authority could not accept inquiry report without calling comments from the petitioner whereas in the instant case issued show cause notice calling upon the petitioner to show cause as to why he should not be dismissed from service;

(iv) The State Government has issued instructions to all the authorities that in the show cause notice punishment shall not be proposed;

(v) The petitioner was having 32 years' service and authorities

passed impugned orders without considering his length of service as required by Rule 16.2 of Punjab Police Rules, 1934 (as applicable to State of Haryana) (in short 'PPR')

4. *Per contra*, learned State counsel reiterates contents of orders passed by authorities below. She submits that there is no infirmity in the impugned orders. This Court in *Naresh Kumar Versus State of Haryana and Others, 2025 SCC OnLine P&H 2865* has already held that SP is Competent Authority to pass punishment order in case of an ASI. The respondent issued show cause notice prior to passing order of punishment and copy of inquiry report was supplied to petitioner, thus, there was compliance of principles of natural justice. The petitioner filed reply to said show cause notice, thus, it cannot be held that there was no opportunity of hearing.

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. The petitioner's first contention is that he was holding rank of ASI, thus, Superintendent of Police was not his appointing authority, therefore, could not award him punishment of dismissal from service. Contention of the petitioner is mis-conceived and deserves to be turned down. This Court in *Naresh Kumar (supra)* has already held that Superintendent of Police is appointing authority of Assistant Sub Inspectors and Sub Inspectors. He has power to inflict punishment of dismissal from service.

7. Second contention of petitioner is that departmental proceedings could be initiated only after getting approval from District Magistrate. Contention of petitioner is based upon reading of Rule 16.38

of PPR. This Court in *Narender Kumar Versus State of Haryana and Others, 2025 SCC OnLine P&H 3242* has held that permission as contemplated by Rule 16.38 of PPR is not required in case of allegations of corruption. Rule 16.40 of PPR is applicable and Rule 16.38 of PPR is inapplicable. The petitioner was found involved in corruption. He was arrested and thereafter made to face trial.

8. In the wake of above cited judgments of this Court, arguments of petitioner regarding competence of Superintendent of Police to pass punishment order and requirement of prior permission of District Magistrate under Rule 16.38 of PPR are liable to be rejected and accordingly rejected.

9. Third limb of arguments of the petitioner is that Disciplinary Authority being different from Inquiry Officer was bound to call comments of the petitioner prior to accepting inquiry report. The Disciplinary Authority straightway issued show cause notice proposing punishment. It was in gross violation of principles of natural justice.

The inquiry is adumbrated in Rule 16.24 of PPR. The said Rule prescribes complete procedure of inquiry and punishment which is reproduced as below:

“16.24. Procedure in departmental enquiries.-(1) The following procedure shall be followed in departmental enquiries –

(i) The police officer accused of misconduct shall be brought before an officer empowered to punish him, or such superior officer as the Superintendent may direct to conduct the enquiry. That officer shall record and read out to the accused officer a statement summarizing the alleged misconduct in such a way as to give full notice of the

circumstances in regard to which evidence is to be recorded. A copy of the statement will also be supplied to the accused officer free of charge.

- (ii) *If the accused police officer at this stage admits the misconduct alleged against him, the officer conducting the enquiry may proceed forthwith to frame a charge, record the accused officer's plea and any statement he may wish to make in extenuation and to record a final order, if it is within his power to do so, or a finding to be forwarded to an officer empowered to decide the case. When the allegations are such as can form the basis of a criminal charge, the Superintendent shall decide at this stage, whether the accused shall be tried departmentally first and judicially thereafter.*
- (iii) *If the accused police officer does not admit the misconduct, the officer conducting the enquiry shall proceed to record such evidence, oral and documentary, in proof of the accusation, as is available and necessary to support the charge. Whenever possible, witnesses shall be examined direct, and in the presence of the accused, who shall be given opportunity to take notes of their statements and cross-examine them. The officer conducting the enquiry is empowered, however, to bring on to the record the statement of any witness whose presence cannot, in the opinion of such officer, be procured without undue delay and expense or inconvenience, if he considers such statement necessary, and provided that it has been recorded and attested by a police officer superior in rank to the accused officer or by a magistrate, and is signed by the person making it. This statement shall also be read out to the accused officer and he shall be given an opportunity to take notes. The accused shall be bound to answer any questions which the enquiring officer may see fit to put to him*

with a view to elucidating the facts referred to in statements or documents brought on the record as herein provided.

- (iv) *When the evidence in support of the allegations has been recorded the enquiring officer shall, (a) if he considers that such allegations are not substantiated, either discharge the accused himself, if he is empowered to punish him, or recommend his discharge to the Superintendent, or other officer, who may be so empowered, or (b) proceed to frame a formal charge or charges in writing, explain them to the accused officer and call upon him to answer them.*
- (v) *The accused officer shall be required to state the defence witnesses whom he wishes to call and may be given time, in no case exceeding forty eight hours, to prepare a list of such witnesses, together with a summary of the facts as to which they will testify. The enquiring officer shall be empowered to refuse to hear any witnesses whose evidence he considers will be irrelevant or unnecessary in regard to the specific charge framed. He shall record the statements of those defence witnesses whom he decides to admit in the presence of the accused, who shall be allowed to address questions to them, the answers to which shall be recorded; provided that the enquiring officer may cause to be recorded by any other police officer superior in rank to the accused the statement of any such witness whose presence cannot be secured without undue delay or inconvenience, and may bring such statement on to the record. The accused may file documentary evidence and may for this purpose be allowed access to such files and papers, except such as form part of the record of the confidential office of the Superintendent of Police, as the enquiring officer deems fit. The supply of copies of documents*

to the accused shall be subject to the ordinary rules regarding copying fees.

- (vi) *At the conclusion of the defence evidence, or, if the enquiring officer so directs, at any earlier stage following the framing of a charge, the accused shall be required to state his own answer to the charge. He may be permitted to file a written statement and may be given time, not exceeding one week, for its preparation, but shall be bound to make an oral statement in answer to all questions which the enquiring officer may see fit to put to him, arising out of the charge, the recorded evidence, or his own written statement.*
- (vii) *The enquiring officer shall proceed to pass orders of acquittal or punishment, if empowered to do so, or to forward the case with his finding and recommendations to an officer having the necessary powers. Whenever the officer passing the orders of punishment proposes to take into considerations the adverse entries on the previous record of the accused police officer, he shall provide reasonable opportunity to the defaulter to defend himself; and a copy or at least a gist of those entries shall be conveyed to the defaulter and he shall be asked to convey to the defaulter and he shall be asked to give such explanation as he may deem fit. The explanation furnished by the defaulter shall be taken into account by the officer before passing orders in the case.*
- (viii) *Nothing in the foregoing rule shall debar a Superintendent of Police from making or causing to be made a preliminary investigation into the conduct of a suspected officer. Such an enquiry is not infrequently necessary to ascertain the nature and degree of misconduct which is to be formally enquired into. The suspected police officer may or may not be present at such preliminary enquiry, as*

ordered by the Superintendent of Police or other gazetted officer initiating the investigation, but shall not cross-examine witnesses. The file of such a preliminary investigation shall form no part of the formal departmental record, but statements therefrom may be brought to the formal record when the witnesses are no longer available in the circumstances detailed in clause (iii) above. All statements recorded during a preliminary investigation should be signed by the person making them and attested by the officer recording them.

(2) (i) Notwithstanding anything contained in sub-rule (1) a Superintendent of Police or any officer of rank higher than Superintendent, may institute, or cause to be instituted, ex parte proceedings in any case in which he is satisfied that the defaulter cannot be found or that in spite of notice to attend the defaulter is deliberately evading service or refusing to attend without due cause.

(ii) The procedure in such ex parte proceedings shall, as far as possible, conform to the procedure laid down in sub-rule (1):

Provided that the defaulter shall be deemed –

(a) not to have admitted the allegations contained in the summary of misconduct, and

(b) to have entered a plea of not guilty of the charge:

Provided further that the defaulter, if he subsequently appears at any stage during the course of the proceedings shall not be entitled to claim de novo proceedings or to recall for cross-examination any witness whose evidence has already been recorded. He shall, however, be fully informed of the evidence which has been led against him and shall be permitted to take notes thereof. He shall also be furnished with a copy of the summary of misconduct and of the charge or charges framed.

(3) Notwithstanding anything contained in these rules,

where an officer, empowered to dismiss, remove or reduce in rank the police officer accused of misconduct, is satisfied at any stage during an enquiry that for reasons, to be recorded in writing by that officer, it is not reasonably practicable to hold the enquiry after that stage, he will straight-away award the punishment.

Explanation - *For the purposes of sub-rule (3), initiation of disciplinary proceedings against the police officer on the grounds of,-*

- (i) indulging in spying or smuggling activities;*
- (ii) disrupting the means of transport or of communication;*
- (iii) damaging public property;*
- (iv) creating indiscipline amongst fellow policemen;*
- (v) promoting feelings of enmity or hatred between different classes of citizens of India on grounds of religion, race, caste, community or language;*
- (vi) going on strike or mass casual leave or resorting to mass abstentions;*
- (vii) spreading disaffection against the Government; and*
- (viii) causing riots and the like;*

shall be sufficient reason for concluding that it is not reasonably practicable to hold the enquiry

[Emphasis supplied].”

From the perusal of the above quoted Rule, it is evident that Clause (vii) of Rule 16.24(1) deals with situation post conclusion of inquiry. It provides that Inquiry Officer shall proceed to pass order of acquittal or punishment, if empowered to do so or forward the case with his findings and recommendations to an officer having the necessary powers. There is nothing in the rule which provides that Disciplinary Authority if is different from Inquiry Officer, would seek comments of delinquent before forming any opinion on the inquiry report. The petitioner is claiming that seeking opinion of delinquent before forming

any opinion on inquiry report is part of natural justice. It is true that in the absence of embargo, the delinquent should be given full opportunity to put forth his stand. Compliance of requirement of opportunity of hearing or opportunity to file response depends upon facts and circumstances as well as nature of proceedings. There is no absolute and straight jacket formula. Rule 16.24 of PPR is silent with respect to opportunity to delinquent before forming any opinion by Disciplinary Authority on inquiry report. In the present case, the Disciplinary Authority supplied inquiry report to the delinquent and called upon him to show cause as to why he should not be awarded punishment. The delinquent filed his reply. He raised all possible pleas. The Disciplinary Authority further granted him opportunity of hearing. In such circumstances, it is difficult to conclude that petitioner was not granted due opportunity to put forth his stand qua inquiry report and proposed punishment. The Inquiry Officer conducted inquiry as per Rule 16.24 of PPR prescribed. The delinquent as admitted by him in reply dated 16.01.2008 was given opportunity to submit his defence against charges and evidence. He submitted a defence statement proving as to how charges against him stood disproved from the evidence on record. It is apt to notice here that petitioner did not raise issue of seeking his comments before Disciplinary Authority. He has raised issue before this Court. It is not a pure question of law which can be raised at any stage.

From the above discussion, it is evident beyond the pale of doubt that petitioner was granted due opportunity to file his written response as well as opportunity of personal hearing. There was due compliance of principles of natural justice. The claim of petitioner is

solely based upon principles of natural justice. He is not claiming violation of procedure contemplated by Rule 16.24 of PPR. This Court finds that there was due compliance of principles of natural justice as well as mandate of Rule 16.24 of PPR *qua* procedure to be adopted before imposing punishment of dismissal from service.

10. As per petitioner, the respondent did not comply with Government instructions dated 30.07.1975 underscoring that authorities competent to inflict punishment should strictly avoid to mention proposed punishment either in the chargesheet or show cause notice.

As per first proviso to Article 311(2) of the Constitution of India, the Disciplinary Authority may impose penalty on the basis of evidence adduced during inquiry and it is not necessary to give delinquent any opportunity of making representation on the penalty proposed. Article 311(2) reads as:

“No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges;

Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed:

Provided further that this clause shall not apply-

(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is

satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State, it is not expedient to hold such inquiry.”

In the light of aforesaid proviso to Article 311(2), it can be inferred that there is no need to give opportunity of making representation after conclusion of inquiry though Courts have held that it would be in compliance of principles of natural justice if Disciplinary Authority before passing final order grants opportunity to delinquent to rebut findings of Inquiry Officer. The instructions relied upon by petitioner are neither statutory nor binding upon Courts. These are advisory in nature.

11. As per Article 311 of the Constitution of India, the punishment cannot be awarded without conducting inquiry except in exceptional circumstances. Article 311 was amended by Constitution (42nd Amendment) Act, 1976. By said amendment, the portion of Article 311(2) which required a reasonable opportunity of making representation on the proposed penalty was deleted and it was expressly provided that it is not necessary to give to a delinquent Government Servant any opportunity of making representation on the proposed penalty. Amended and unamended Article 311(2) of the Constitution of India in juxtaposition are reproduced below: -

Unamended Article 311(2)	Amended Article 311(2)
<p><i>No such person as aforesaid shall be dismissed or removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him:</i></p> <p><i>Provided that this clause shall not apply—</i></p> <p><i>(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge;</i></p> <p><i>(b) where an authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to give to that person an opportunity of showing cause; or</i></p> <p><i>(c) where the President or Governor or Rajpramukh, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to give to that person such an opportunity.</i></p>	<p><i>No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges;</i></p> <p><i>Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed:</i></p> <p><i>Provided further that this clause shall not apply-</i></p> <p><i>(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or</i></p> <p><i>(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or</i></p> <p><i>(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State, it is not expedient to hold such inquiry.</i></p>

11. A Constitution Bench in *Union of India v. Tulsi Ram Patel*, (1985) 3 SCC 398 considered the scope and effect of aforesaid amendment. The Court clearly held that after said amendment, there is no requirement of granting opportunity of hearing on the proposed penalty.

The relevant extracts of the judgment read as: -

“68. The question which then arises is, “Whether the Constitution (Forty-second Amendment) Act, 1976, which further amended the substituted clause (2) of Article 311 with effect from January 1, 1977, has made any change in the law?” The amendments made by this Act are that in clause (2) that portion which required a reasonable opportunity of making representation on the proposed penalty to be given to a government servant was deleted and in its place the first proviso was inserted, which expressly provides that it is not necessary to give to a delinquent government servant any opportunity of making representation on the proposed penalty. Does this affect the operation of the original proviso which, by the Constitution (Forty-second Amendment) Act, became the second proviso? Such obviously was not and could not have been the intention of Parliament. The opening words of the second proviso remain the same except that the word “further” was inserted after the word “provided”, because the original proviso by reason of the insertion of another proviso before it became the second proviso. It should be borne in mind that the show-cause notice at the punishment stage was originally there as a result of the interpretation placed by the Judicial Committee in Lall case [AIR 1948 PC 121] and by this Court in Khem Chand case [AIR 1958 SC] upon the phrase “a reasonable opportunity of showing cause against the action proposed to be taken in regard to him”. Clause (2) as substituted by the Constitution (Fifteenth Amendment) Act merely reproduced the substance of what was held in Khem Chand case [AIR 1958 SC 300]. The words which originally

found a place in clause (2), “a reasonable opportunity of showing cause against the action proposed to be taken in regard to him”, do not any more feature in clause (2). All that clause (2) now provides is an inquiry in which the government servant is informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. Clause (2) taken by itself even without the first proviso does not provide, expressly or impliedly, for any opportunity to make a representation against the proposed penalty. After the Constitution (Fifteenth Amendment) Act this second opportunity formed a separate part of clause (2), which part was deleted by the Constitution (Forty-second Amendment) Act. Thus, when the second proviso states in its opening words that “Provided further that this clause shall not apply”, it means that whatever safeguards are to be found in clause (2) are wholly taken away in a case where any of the three clauses of the second proviso is attracted. In this connection, the following observations of this Court in the case of Suresh Koshy George v. University of Kerala [AIR 1969 SC 198] (at pp. 326-27) are pertinent:

“There seems to be an erroneous impression in certain quarters evidently influenced by the provisions in Article 311 of the Constitution particularly as they stood before the amendment of that article that every disciplinary proceeding must consist of two inquiries, one before issuing the show cause notice to be followed by another inquiry thereafter. Such is not the requirement of the principles of natural justice. Law may or may not prescribe such a course.”

In Associated Cement Companies Ltd. v. T.C. Shrivastava [1984 Supp SCC 87] this Court held that “neither under the ordinary law of the land nor under industrial law a second opportunity to show cause against the proposed punishment is necessary”. Since a right to such opportunity does not exist in law, it follows that the

only right which the government servant had to make a representation on the proposed penalty was to be found in clause (2) of Article 311 prior to its amendment by the Constitution (Forty-second Amendment) Act. This right having been taken away by the Constitution (Forty-second Amendment) Act, there is no provision of law under which a government servant can claim this right.”

In view of afore-cited judgment and amended Article 311(2), there is no need to issue show cause notice with respect to proposed punishment. The instructions were issued prior to aforesaid amendment of Article 311. In the light of amended Article 311, the instructions relied upon by petitioner have lost significance.

12. The petitioner lastly claims that Disciplinary Authority while passing punishment order as per Rule 16.2 of PPR is supposed to consider length of service as well as entitlement of the delinquent to pension. The petitioner, at the time of passing impugned order, was having 32 years' service to his credit apart from many commendation certificates. The Disciplinary Authority did not consider his length of service which was contrary to judgments of this Court in *Shiv Raj Singh Sidhu Versus Union of India and Others, 2011(2) S.C.T. 626* and *State of Haryana and Others Versus Jai Dev, 2012(3) S.C.T. 648* as well as mandate of Rule 16.2 of PPR.

It is true that Disciplinary Authority as per Rule 16.2 of PPR is required to consider length of service as well as entitlement of pension prior to passing order of dismissal from service. Rule 16.2 of PPR reads as:

“16.2. Dismissal.

(1) Dismissal shall be awarded only for the gravest acts of

misconduct or as the cumulative effect or continued misconduct proving Incurability and complete unfitness for police service. In making such an award regard shall be had to the length of service of the offender and his claim to pension.

Explanation.- For the purposes of sub-rule (1), the following shall, inter alia, be regarded as gravest acts of misconduct in respect of a police officer, facing disciplinary action:

- (i) indulging in spying or smuggling activities;*
- (ii) disrupting the means of transport or of communication;*
- (iii) damaging public property;*
- (iv) causing indiscipline amongst fellow policemen;*
- (v) promoting feeling of enmity or hatred between different classes of citizens of India on grounds of religion, race, caste, community or language;*
- (vi) going on strike or mass casual leave or resorting to mass abstentions;*
- (vii) spreading disaffection against the Government; and*
- (viii) causing riots and the like*

(2) An enrolled police officer sentenced judicially to rigorous imprisonment exceeding one month or to any other punishment not less severe, shall, if such sentence is not quashed on appeal or revision, be dismissed. An enrolled police officer sentenced by a criminal court to a punishment of fine or simple imprisonment, or both, or to rigorous imprisonment not exceeding one month, or who, having been proclaimed under Section 87 of the Code of Criminal Procedure fails to appear within the statutory period of thirty days may be dismissed or otherwise dealt with at the discretion of the officer empowered to appoint him. Final departmental orders in such cases shall be postponed until the appeal or revision proceedings have been decided, or until the period allowed for filing an appeal has lapsed without appellate or revisionary proceedings having been instituted. Departmental

punishments under this rule shall be awarded in accordance with the powers conferred by rule 16/1.

(3) When a police officer is convicted judicially and dismissed, or dismissed as a result of a departmental inquiry, in consequence of corrupt practices, the conviction and dismissal and its cause shall be published in the Police Gazette. In other cases of dismissal when it is desired to ensure that the officer dismissed shall not be re-employed elsewhere, a full description roll, with particulars of the punishments, shall be sent for publication in the Police Gazette.”

From the perusal of aforesaid Rule, it is evident that Disciplinary Authority in making award of dismissal from service ought to consider length of service of the offender and his claim to pension. Hon'ble Supreme Court in ***State of Punjab Versus Ram Singh, (1992) 4 SCC 54*** while considering Rule 16.2 of PPR has observed that single act of corruption despite long service may entail dismissal from service. Relevant extracts of the judgment read as:

“7. Rule 16.2(1) consists of two parts. The first part is referable to gravest acts of misconduct which entails awarding an order of dismissal. Undoubtedly there is distinction between gravest misconduct and grave misconduct. Before awarding an order of dismissal it shall be mandatory that dismissal order should be made only when there are gravest acts of misconduct, since it impinges upon the pensionary rights of the delinquent after putting long length of service. As stated the first part relates to gravest acts of misconduct. Under General Clauses Act singular includes plural, “act” includes acts. The contention that there must be plurality of acts of misconduct to award dismissal is fastidious. The word “acts” would include singular “act” as well. It is not the repetition of the acts complained of but its quality, insidious effect and gravity of situation that ensues from

the offending 'act'. The colour of the gravest act must be gathered from the surrounding or attending circumstances. Take for instance the delinquent who put in 29 years of continuous length of service and had unblemished record; in thirtieth year he commits defalcation of public money or fabricates false records to conceal misappropriation. He only committed once. Does it mean that he should not be inflicted with the punishment of dismissal but be allowed to continue in service for that year to enable him to get his full pension. The answer is obviously no. Therefore, a single act of corruption is sufficient to award an order of dismissal under the rule as gravest act of misconduct."

[Emphasis supplied]

In the case in hand, the petitioner was dismissed from service on account of allegation of corruption. He was found guilty of demanding and accepting bribe. He was caught in a trap. An FIR was registered against him. Police filed its report, however, he was acquitted on technical grounds. As petitioner was guilty of demanding and accepting bribe, there was no need to hang upon his length of service. If an Officer despite being found guilty of corruption is awarded punishment less than dismissal from service, there would be no other occasion to award punishment of dismissal from service. Rule 16.40 has been specifically inserted in PPR to deal with cases of corruption. No lenient view is warranted.

13. From the above discussion and findings, it is evident that petitioner has challenged impugned orders on technical grounds. The petitioner did not raise dispute on merit. It is very difficult to get FIR registered against a Police Officer. There is no allegation of *mala fide* or connivance against Disciplinary Authority or complainant. In such circumstances, it would be inequitable and unfair to interfere with

impugned orders awarding punishment of dismissal from service. Court is not oblivious of the fact that interference in such type of cases discourages higher Police Officials to take action against erring subordinates.

14. Scope of interference while exercising jurisdiction under Articles 226/227 of the Constitution of India in disciplinary proceedings is very limited. The Court has no power to look into quantum of sentence/punishment unless and until Court finds that sentence awarded is disproportionate to alleged offence. It is further settled proposition of law that High Court while exercising its jurisdiction under Article 226 of Constitution of India can look into the procedure followed by authorities. In case, it is found that enquiry officer or disciplinary authority has not considered any evidence on record or misread the evidence or procedure as prescribed by law has not been followed, the Court can interfere. A two-judge Bench of Hon'ble Supreme Court in ***Union of India and others vs. Subrata Nath, 2022 LiveLaw (SC) 998*** while advertent with scope of interference under Article 226 of the Constitution of India in disciplinary proceedings has held that departmental authorities are fact finding authorities. On finding the evidence to be adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct. The Hon'ble Supreme Court has considered its judicial precedents including a two-judge Bench judgment in ***Union of India and Others v. P. Gunasekaran (supra)***.

15. A Constitution Bench in ***Syed Yakoob Vs K.S. Radhakrishnan, AIR 1964 SC 477*** and a two judge bench of the Hon'ble

Supreme Court recently in *Central Council for Research in Ayurvedic Sciences and another Vs Bikartan Das and others 2023 SCC Online SC 996* have reminded us that there are two cardinal principles of law governing issuance of writ of certiorari under Article 226 of the Constitution of India i.e. (i) High Court does not exercise the powers of Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record; (ii) in a given case, even if some action or order challenged in the writ petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties. It is perfectly open for the writ court, exercising this flexible power to pass such orders as public interest dictates & equity projects. The High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal Court of appeal which it is not.

16. In the wake of above discussion and findings, this Court is of the considered opinion that present petition being bereft of merit deserves to be dismissed and accordingly dismissed.

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

(JAGMOHAN BANSAL)
JUDGE

02.12.2025

Prince Chawla

Date of Uploading: 02.12.2025

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No