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

CWP-23978-2017 (O & M)
Date of Decision: 23.05.2025

Satyaveer Singh .....Petitioner(s)

Versus

State of Haryana and others ....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Vipin Yadav, Advocate,
and Mr. J.S. Johal, Advocate,
for the petitioner.

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

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JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226 and 227 of the Constitution of India is seeking setting aside:

(i) order dated 20.03.2015 (Annexure P-5) passed by Inspector General of Police, South Range, Rewari;

(ii) order dated 04.07.2015 (Annexure P-7) passed by Director General of Police, Haryana.

2. The petitioner joined Haryana Police Force as Constable on 11.11.2008. The respondent initiated departmental inquiry against him alleging that he had remained absent from duty for 24 hours and 20 minutes. The petitioner remained absent from duty from 20.08.2014 to 21.08.2014 for 24 hours and 20

minutes. The respondent initiated departmental inquiry wherein he was found guilty of absence from duty. He was dismissed from service by order dated 23.01.2015 passed by Superintendent of Police, Rewari. He preferred an appeal which came to be partially allowed by Inspector General of Police, Rewari. The Appellate Authority vide order dated 20.03.2015 reduced the quantum of punishment. The punishment of dismissal from service was converted into forfeiture of 10 annual increments with permanent effect. He preferred revision before Director General of Police which came to be dismissed vide order dated 04.07.2015.

3. Mr. Vipin Yadav submits that punishment awarded by authorities is disproportionate to alleged misconduct.

4. Ms. Rajni Gupta, Addl. A.G., Haryana concedes that alleged punishment was awarded for absence from duty for 24 hours and 20 minutes. She further submits that petitioner is a part of disciplined force, thus, his conduct must be beyond the board. He is bound to maintain high standards of discipline.

5. I have heard the arguments and perused the record.

6. As per Rule 16.2 of Punjab Police Rules, 1934 (as made applicable to the State of Haryana) (in short '1934 Rules'), a Police Officer may be dismissed from service for gravest act of misconduct or cumulative effect of continued misconduct proving incorrigibility and complete unfitness for police service. The said Rule further provides that in passing award of dismissal from service, the Authority shall take care of length of service of the offender and his claim to pension.

7. Rule 16.2 of 1934 Rules for the ready reference is reproduced as below:-

> *"16.2. Dismissal.*
>
> *(1) Dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect or continued misconduct proving Incorrigibility 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."

8. From the plain reading of above quoted Rule, it is quite evident that there should be allegation of gravest misconduct or continued misconduct proving incorrigibility and complete unfitness for the police service. It is a settled proposition of law that punishment should be commensurate to alleged offence. The principle of proportionality should be followed. Rule 16.2 of the 1934 Rules embodies guiding factors which should be kept in mind.

9. The Supreme Court time and again has held that in case Court finds that punishment awarded by authority is disproportionate to alleged misconduct, the Court should remand the matter to competent authority to reconsider quantum of punishment. As per principle of proportionality, punishment prescribed by

legislation must be in commensurate to alleged offence. If punishment is disproportionate to alleged offence, it is violative of Article 14 of the Constitution of India.

In ***Om Kumar v. Union of India, (2001) 2 SCC 386,*** a matter came up for hearing on account of an order of Supreme Court dated 4.5.2000 proposing to re-open the quantum of punishments imposed in departmental inquiries on certain officers of the Delhi Development Authority who were connected with the land of the DDA allotted to M/s. Skipper Construction Co. It was proposed to consider imposition of higher degree of punishments in view of the roles of these officers in the said matter. The question posed before the court was whether the right punishments were awarded to the officers in accordance with well known principles of law or whether the punishments required any upward revision. Proportionality as a constitutional doctrine has been highlighted in as follows:

> *"30. On account of a Chapter on Fundamental Rights in Part III of our Constitution right from 1950, Indian Courts did not suffer from the disability similar to the one experienced by English Courts for declaring as unconstitutional legislation on the principle of proportionality or reading them in a manner consistent with the charter of rights. Ever since 1950, the principle of "proportionality" has indeed been applied vigorously to legislative (and administrative) action in India. While dealing with the validity of legislation infringing fundamental freedoms enumerated in Article 19(1) of the Constitution of India - such as freedom of speech and expression, freedom to assemble peaceably, freedom to form associations and unions, freedom to move freely throughout the territory of India, freedom to reside and settle in any part of India - this Court has occasion to consider whether the restrictions imposed by legislation were disproportionate to*

the situation and were not the least restrictive of the choices. The burden of proof to show that the restriction was reasonable lay on the State. "Reasonable restrictions" under Articles 19(2) to (6) could be imposed on these freedoms only by legislation and courts had occasion throughout to consider the proportionality of the restrictions. In numerous judgments of this Court, the extent to which "reasonable restrictions" could be imposed was considered. In ***Chintamanrao v. State of M.P. [AIR 1951 SC 118:*** *Mahajan, J. (as he then was) observed that "reasonable restrictions" which the State could impose on the fundamental rights "should not be arbitrary or of an excessive nature, beyond what is required in the interests of the public". "Reasonable" implied intelligent care and deliberation, that is, the choice of a course which reason dictated. Legislation which arbitrarily or excessively invaded the right could not be said to contain the quality of reasonableness unless it struck a proper balance between the rights guaranteed and the control permissible under Articles 19(2) to (6). Otherwise, it must be held to be wanting in that quality. Patanjali Sastri, C.J. in* ***State of Madras v. V.G. Row [AIR 1952 SC 196****], observed that the Court must keep in mind the "nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time". This principle of proportionality vis-a-vis legislation was referred to by Jeevan Reddy, J. in* ***State of A.P. v. McDowell & Co. (1996) 3 SCC 709*** *recently. This level of scrutiny has been a common feature in the High Court and the Supreme Court in the last fifty years. Decided cases run into thousands.*

31. Article 21 guarantees liberty and has also been subjected to principles of "proportionality". Provisions of the Criminal

Procedure Code, 1974 and the Indian Penal Code came up for consideration in ***Bachan Singh v. State of Punjab [(1980) 2 SCC 684*** *the majority upholding the legislation. The dissenting judgment of Bhagwati, J. (see* ***Bachan Singh v. State of Punjab (1982) 3 SCC 24*** *dealt elaborately with "proportionality" and held that the punishment provided by the statute was disproportionate.*

32. So far as Article 14 is concerned, the courts in India examined whether the classification was based on intelligible differentia and whether the differentia had a reasonable nexus with the object of the legislation. Obviously, when the courts considered the question whether the classification was based on intelligible differentia, the courts were examining the validity of the differences and the adequacy of the differences. This is again nothing but the principle of proportionality. There are also cases where legislation or rules have been struck down as being arbitrary in the sense of being unreasonable [see ***Air India v. NergeshMeerza [(1981) 4 SCC 335 (SCC at pp. 372-373)****]. But this latter aspect of striking down legislation only on the basis of "arbitrariness" has been doubted in* ***State of A.P. v. McDowell and Co. (1996) 3 SCC 709****."*

In ***Bhagat Ram v. State of Himachal Pradesh, (1983) 2 SCC 442***, the Apex Court held that any penalty which is disproportionate to the gravity of misconduct would be violative of Article 14 of the Constitution of India. The relevant extracts of the judgment read as:

"15. … It is equally true that the penalty imposed must be commensurate with the gravity of the misconduct, and that any penalty disproportionate to the gravity of the misconduct would be violative of Article 14 of the Constitution. …"

10. This Court while adjudicating petitions of police officials of State of Haryana has noticed that authorities have awarded minor punishment despite grave misconduct and even sentence by Trial Court. The Court has further noticed that Revisionary Authority is passing orders in mechanical manner. The facts as narrated in orders passed by Authorities below are reproduced and without recording reason revision is dismissed.

11. In the instant case, the appellate order was passed on 20.03.2015 and revision was filed through proper channel. Director General of Police passed order on 04.07.2015, means there was difference of less than 4 months between the date of passing order by Appellate Authority and Revisionary Authority. The Revisionary Authority has dismissed revision on the ground of delay. It shows that despite there being small period of delay, Director General of Police has mechanically dismissed revision of the petitioner.

12. In the instant case, by no means or reasons, awarded punishment can be called proportionate to alleged misconduct. The absence was only of one day and it was not case of respondent that petitioner was posted at a particular place where atmosphere was of hostility, serious public disorder, riots. In the absence of peculiar circumstances, the respondent was bound to award punishment proportionate to alleged offence.

13. In the normal course matter ought to be remanded to authorities to reconsider quantum of punishment. However, in this particular case, this Court does not find it appropriate to remand the matter because a period of 10 years has already passed away. The authorities have passed impugned orders mechanically

and there are all possibilities that remand would multiply the litigation. Thus, to cut short the litigation and considering the alleged misconduct, this Court deems it appropriate to reduce the quantum of punishment to forfeiture of one increment with cumulative effect.

14. Petition stands disposed of in above terms.

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

23.05.2025 (JAGMOHAN BANSAL)
shivani JUDGE

Whether reasoned/speaking Yes
Whether reportable Yes