IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(231) **CWP-15140-2019**
Date of Decision : July 03, 2025

Amrik Dass Bhatti **.. Petitioner**

Versus

Presiding Officer, Central Govt. Industrial Tribunal-cum- Labour Court -II, Chandigarh and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amarjit Singh, Advocate, for the petitioner.

Mr. Saurav Verma, Advocate, with
Ms. Preeti Grover, Advocate, for respondent No.2.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the Award dated 01.04.2019 (Annexure P-8) by which, the claim raised by the petitioner before the Labour Court challenging the order of dismissal dated 07.01.2003 (Annexure P-4/A), has been rejected.

2. Learned counsel for the petitioner submits that the Labour Court has ignored the various aspects including the fact that the punishment of dismissal imposed was disproportionate to the charges alleged and proved and further that the report given by the Enquiry Officer proving the allegations against the petitioner was not based upon sufficient evidence.

3. Learned counsel for the petitioner further submits that once a prayer was made before the Labour Court that the evidence was not enough to prove the charges, the same should have been evaluated by the Labour Court to find out as to whether the charges were proved on the basis of sufficient evidence or the punishment of dismissal imposed upon the petitioner was valid or was disproportionate to the charges alleged and proved.

4. Learned counsel appearing on behalf of respondent No. 2 submits that the allegations of misconduct were alleged against the petitioner and were proved in the departmental proceedings and thereafter giving due opportunity of hearing to the petitioner, order of punishment dated 07.01.2003 was passed, which fact has been appreciated by the Tribunal in a manner required and the claim of the petitioner that punishment of dismissal was disproportionate to the charges alleged has rightly been rejected hence, impugned Award dated 01.04.2019 (Annexure P-8) may kindly be upheld.

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

6. The first argument which has been raised by the learned counsel for the petitioner is that there was not enough evidence to prove the allegations and the Enquiry Officer wrongly proved the allegations alleged against the petitioner.

7. It is a settled principle of law that the Courts can only interfere with the punishment imposed in departmental proceedings where there was a case of no evidence. Sufficiency of evidence to prove the allegation

alleged against an employee cannot be gone into by the Court. Reliance can be placed upon the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.8546-8549 of 2024 titled as The State of Rajasthan and others vs. Bhupendra Singh, decided on 08.08.2024*** wherein, it has been held that the sufficiency of evidence cannot be gone into by the Court so as to conduct the proceedings as Appellate Authority and it is only in the case where there is no evidence, the Court can intervene. The relevant paragraphs 21 and 24 of the said judgment are as under:-

> *"21. Having considered the matter, the Court finds that the Impugned Judgment cannot be sustained. On a prefatory note, we would begin by quoting what the Division Bench has noted on page No.7: 'It is well settled preposition (sic) of law that courts will not act as an Appellate Court and re-assess the evidence led in domestic enquiry, nor interfere on the ground that another view was possible on the material on record. If the enquiry has been fairly and properly held and findings are based on evidence, the question of adequacy of evidence or reliable nature of the evidence will be no ground for interfering with the finding in departmental enquiry. However, when the finding of fact recorded in departmental enquiry is based on no evidence or where it is clearly perverse then it will invite the intervention of the court.'*
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> *22. XXXX XXXX XXXX XXXX*
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> *23. XXXX XXXX XXXX XXXX*
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> *24. The above was reiterated by a Bench of equal strength in State Bank of India v Ram Lal Bhaskar, (2011) 10 SCC 249. Three learned Judges of this Court stated as under in State of Andhra Pradesh v Chitra Venkata Rao, (1975) 2 SCC 557:*
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> *'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 [AIR 1963 SC 1723: (1964) 3 SCR 25: (1964) 2 LLJ 150]. 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.

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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 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 [AIR 1964 SC 477: (1964) 5 SCR 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, 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.

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26. For these reasons we are of opinion that the High Court was wrong in setting aside the dismissal order by reviewing and reassessing the evidence. The appeal is accepted. The judgment of the High Court is set aside. Parties will pay and bear their own costs."

8. Hence, once the allegations alleged against the petitioner were proved by the Enquiry Officer on the basis of evidence, the argument of the learned counsel for the petitioner that the evidence which came on record were not sufficient to prove the charges alleged, was rightly not gone into by the Labour Court so as to set aside the order of punishment dated 07.01.2003 (Annexure P-4/A).

9. The second argument which has been raised by the learned counsel for the petitioner is that the punishment of dismissal imposed was disproportionate to the charges alleged and proved against the petitioner. In the present case, the allegation against the petitioner was that a sum of Rs.500/- was embezzled from a particular account number of the Bank. The argument of the learned counsel for the petitioner was that the said amount was refunded back in the same account.

10. It is a settled principle of law settled by the Hon'ble Supreme Court of India that once there is an embezzlement of an amount, returning of the said amount will not wash away the allegation of embezzlement.

11. Even otherwise, as per the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.219 of 2023 titled as Union of India and others vs. Const. Sunil Kumar, decided on 19.01.2023***,, the Court cannot interfere even if the punishment is disproportionate unless and until the punishment is shockingly disproportionate to the charges alleged and proved. The relevant paragraph of the said judgment is as under:-

> *" 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.*
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> *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 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.*
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> *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."*

12. In the present case, once the allegation of embezzlement alleged against the petitioner has been proved merely that embezzled amount was deposited back by the petitioner does not condone the said allegation. The embezzlement of an amount of a customer in the Bank is a serious allegation and in the opinion of this Court, once the charge of embezzlement is proved, the punishment of dismissal imposed is not shockingly disproportionate to the charges alleged and proved.

13. Learned counsel for the petitioner has not been able to prove that the finding recorded by the Labour Court are perverse either to the evidence or the facts that came on record or the settled principle of law so as to invite any interference by this Court.

14. Consequently, the writ petition is dismissed.

July 03, 2025 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No