**IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA**

CWPOA No.5173 of 2019
Decided on: 18.11.2025

Sapna Devi ...Petitioner

Versus

State of Himachal Pradesh and others ...Respondents

Coram

Hon'ble Mr. Justice Ranjan Sharma, Judge

Whether approved for reporting?. Yes.

For the petitioner: Mr. Onkar Jairath, Mr. Piyush Mehta, and M.A. Safee, Advocate.

For the respondents: Mr. Navlesh Verma, Additional Advocate General.

Constable Manish No.871 5th IRBn[M] Bassi, Bilaspur, present in person with records.

Ranjan Sharma, Judge

Petitioner Sapna Devi, a Constable, having been discharged from service had filed Original Application No.1313 of 2015 before the State Administrative Tribunal and upon abolition of Tribunal, the matter stood transferred to this Court, as CWPOA No.5173 of 2019, *seeking the following reliefs* :-

> "(i). That the impugned Office Order dated 22.04.2015 (annexure A-12) and the dismissal order dated 25.08.2010 (Annexure P-8), whereby, the services of the petitioner have been brought to an end without appreciating the fact that it was all due to her illness that she kept her absent from the Training Schedule may

[2025:HHC:41903]

kindly be quashed and set aside.

(ii). That the Respondents may be directed to Re-instate the Applicant in her services."

FACTUAL MATRIX:

2. Grievance of the petitioner is that on the recommendations of the Selection Committee, the petitioner was appointed as a Lady Constable in 5th IRBn [Mahila] Bassi, District Bilaspur on 01.01.2010 [*Annexure A-1*]. Upon appointment, the petitioner was to undergo the training as required under the applicable norms. It is further averred that the petitioner remained absent on account of ailment as per the Medical Certificate [*Annexure A-2 colly*] for the period from 19.02.2010 till 06.04.2010 for 48 days and she reported back for training at 2nd IRBn Sakoh District Kangra, H.P. It is further averred that the petitioner availed 4 days casual leave including station leave on 16.04.2010 and was supposed to join back on 22.04.2010, but on account of certain reasons she was unable to join back on 22.04.2010 and thereafter.

2(i). Based on the report of the Commandant 2nd IRBn Sakoh, dated 07.04.2010 [*Annexure A-3*], the

petitioner was placed under suspension on 28.05.2010 [*Annexure A-4*] and the Regular Departmental Inquiry was also ordered against the petitioner as per Rules 16.24 of the Punjab Police Rules, as applicable in the State. One Sh. Hirdhu Ram Kaundal, Additional Superintendent of Police was appointed as the Inquiry Officer with the direction to submit the report to the Disciplinary Authority. It is averred that on 07.06.2010 [*Annexure A-5*], the Inquiry Officer, as per the Punjab Police Rules, as applicable in Himachal Pradesh issued summary of allegations against the petitioner, leveling two charges i.e. willful absence from 20.02.2010 to 06.04.2010 of 48 days and *secondly* the charge of willful absence from 23.04.2010 to 31.05.2010 of 39 days.

In response to charge-sheet dated 07.06.2010 [*Annexure A-5*], the petitioner submitted a reply to the summary of allegations. Consequently, the Inquiry Officer completed the Regular Departmental Inquiry, as per the Punjab Police Rules, as applicable in Himachal Pradesh in the Month of June, 2010 [*Annexure A-6*], and submitted the Inquiry Report to

the Disciplinary Authority on 08.07.2010.

2(ii). On receipt of Inquiry Report, the Commandant 5th IRBn[M] Bassi issued a show cause notice on 06.08.2010 [*Annexure A-7*] directing the petitioner to submit a reply to the findings in the Inquiry Report within 15 days positively [camp at police line Bilaspur]. It is further averred that the petitioner could not submit a reply to the show cause notice dated 06.08.2010 [*Annexure A-7*] [clear from page 58 of the paper book]. In these circumstances, Commandant 5th IRBn Bassi, issued an order, discharging the petitioner from service on 25.08.2010 [*Annexure A-8*], as a Constable under Rule 12.21 of the PPR/HPPR with immediate effect.

After being discharged from the service on 25.08.2010 [*Annexure A-8*], the petitioner submitted an appeal to the Director General of Police on 29.11.2014 [*Annexure A-9*]. Since no action was taken on the said appeal, the petitioner was constrained to file a Civil Writ Petition No.320 of 2015, before this Court which was decided on 07.01.2015 [*Annexure A-10*], directing the Competent Authority to decide the

representation/appeal within six weeks. It is further averred that in compliance to the orders dated 07.01.2015 [*Annexure A-10*], the Respondent No.2-Director General of Police, rejected the appeal on 22.04.2015 [*Annexure A-12*]. It is in this background, the petitioner has prayed for quashing the orders dated 25.08.2010 [*Annexure A-8*], discharging the petitioner from service and the order dated 22.04.2015 [*Annexure A-12*], rejecting the service appeal of the petitioner, with the prayer for reinstatement in service, with all consequential benefits

STAND OF STATE AUTHORITIES IN REPLY-AFFIDAVIT:

3. Pursuant to the issuance of notice on 15.06.2015, the Respondent 1 to 4 have filed Reply-Affidavit dated 24.07.2015 of Director General of Police, Himachal Pradesh.

3(i). In Para 1 of the preliminary submission of the Reply-Affidavit, the respondents have taken a stand that the petitioner was discharged from service on 25.08.2010 [*Annexure A-8*] and he submitted the appeal after 4 years on 29.11.2014 [*Annexure A-9*] which was rejected on 22.04.2015 [*Annexure A-12*],

after affording an opportunity of hearing to the petitioner.

Reply-Affidavit further states that the petitioner was appointed as a Constable on 01.01.2010 [*Annexure A-1*] and she was to undergo the training course as per the norms. Reply-Affidavit indicates that the petitioner remained absent from 19.02.2010 till 06.04.2010 for about 48 days and rejoined training on 07.04.2010. Reply-Affidavit further states that the petitioner did not mend her ways and she proceeded on casual leave/station leave on 16.04.2010 for 4 days and she was supposed to join back on 22.4.2010 but she failed to do so. Reply-Affidavit further states that on account of her absence w.e.f. 22.04.2010, the State Authorities have sent a communication/message on 24.04.2010 and then again on 06.05.2010 through Station House Officer Haroli, directing the petitioner to resume the training course immediately. Despite service of these notices on 10.05.2010, the petitioner failed to resume her training. On account of her willful absence from 22.04.2010, the petitioner was placed under suspension on 25.08.2010 [*Annexure A-4*].

Consequently, the departmental proceedings were initiated against her on 07.06.2010 [*Annexure A-5*]. Reply-Affidavit further indicates that the charges with respect to the absence from 19.02.2010 to 06.04.2010 were proved though the petitioner had submitted the Medical Certificates only for the period from 18.02.2010 to 23.03.2010 for 13 days in this period. So far as the absence w.e.f. 22.04.2010 till 31.08.2010 i.e. the date of suspension, no such Medical Certificate was ever submitted by petitioner. Reply-Affidavit further indicates that the charges were proved by the Inquiry Officer in the Inquiry Report of June, 2010 [*Annexure A-6*]. This Inquiry Report was submitted to the Disciplinary Authority on 08.07.2010. After receipt of inquiry report, the Commandant 5th IRBn, Bassi issued a show cause notice on 06.08.2010 [*Annexure A-7*] directing the petitioner to submit a response to the Inquiry Report within 15 days. Perusal of the Reply-Affidavit indicates that the show cause notice dated 06.08.2010 [*Annexure A-7*] was served upon the petitioner at her residence on 07.08.2010 but

despite service, no response to the Inquiry Report was filed.

3(ii). Reply-Affidavit further indicates that the departmental proceedings, which were initiated against the petitioner on 07.06.2010 [*Annexure A-5*], were conducted by the Inquiry Officer as per norms. In para 6[xi], the State Authorities has specifically stated that the plea of the petitioner that she was being treated by Tantriks cannot give a right to the petitioner to seek the benefit of the period of absence. Reply-Affidavit further stated that after passing of the orders of discharge on 25.08.2010 [*Annexure A-8*], the petitioner had submitted an appeal belatedly after 4 years on 29.11.2014 [*Annexure A-9*] which was considered and rejected on 22.04.2015, [*Annexure A-12*]. In this backdrop, the State Authorities have prayed for dismissal of the writ petition, on the ground that the Inquiry was conducted in accordance with norms wherein the charges were proved and the fact that the petitioner had failed to submit a response to the show cause notice-Inquiry Report despite opportunity and the petitioner

did not produced any medical evidence with respect to her alleged willful absence from 22.04.2010 till suspension on 28.05.2010 [*Annexure A-4*] and, therefore, it was prayed that the writ petition may be dismissed.

REBUTTAL-REJOINDER BY THE PETITIONER:

4. Petitioner has filed a rejoinder, stating therein that the petitioner submitted Medical Certificates for the period from 18.02.2010 to 23.03.2010 of 13 days vis-a-vis the period of willful absence from 20.02.2010 to 06.04.2010 during this period. So far as the absence of the petitioner from 22.04.2010, neither any documentary evidence by way of Medical Certificates or any other permissible, cogent and convincing admissible document to show that the absence during this period was not willful. In rebuttal a prayer was made that the absence was not willful and was due to unavoidable circumstances. Other submissions in the writ petition were reiterated.

5. Heard, Mr. Onkar Jairath, Advocate assisted by Mr. M.A. Safee, Advocate and Mr. Navlesh Verma, Learned Additional Advocate General for the

respondents-State.

ANALYSIS:

6. Taking into account the entirety of the facts and circumstances and the material on record this Court is of the considered view, that the order of discharge dated 25.08.2010 [*Annexure A-8*] and the orders dated 22.04.2015 [*Annexure A-12*] rejecting the service appeal preferred by petitioner, does not suffer from any infirmity *for the following reasons*:-

WILLFUL ABSENCE BORNE OUT FROM RECORDS:

6(i). *Firstly*, the petitioner was appointed as a Lady Constable in 5th IRBn [M], Bassi, District Bilaspur [camp at Bilaspur] on 01.01.2010 [*Annexure A-1*]. After appointment, the petitioner was made to undergo the constabulary training in 2nd IRBn Sakoh. During training, the petitioner remained absent from 19.02.2010 till 06.04.2010 and she rejoined training on 07.04.2010. Admitted position from the records is that during this period, the petitioner had submitted the Medical Certificates for 13 days from 18.02.2010 to 02.03.2010 [*Annexure A-2 colly*]. Despite being willfully absence on the first

occasion from 19.02.2010 to 06.04.2010, the petitioner remained incorrigible. Petitioner action proceeded on casual leave/station leave for 4 days w.e.f. 16.04.2010 and she was supposed to re-join duty/training on 24.04.2010, on expiry of the leave period of 4 days, but the petitioner did not report for duty/training on 22.04.2010 and remained absent from 22.04.2010 to 28.05.2010 [*Annexure A-4*] i.e. the date of suspension and thereafter. Material on record indicates that for non-joining training/duty on 22.04.2010, the petitioner was directed by way of communication/ letter dated 24.04.2010 and 06.05.2010 which was furnished to her through SHO Haroli, District Una, asking her to resume training, but despite service of notice on 10.05.2010, the petitioner failed to resume the training or to report as directed. Material on record indicates that for the period of absence on second occasion from 22.02.2010 to 28.05.2010 i.e. date of issuance of suspension, no Medical Certificates or any other admissible cogent and convincing documentary evidence was either submitted to the Disciplinary Authority or to department or to

Inquiry Officer to assert and establish that the absence was not willful but was on account of various reasons beyond her control. Records reveal that the petitioner had taken a stand that she remained under-treatment from Tantriks cannot be accepted as a permissible ground, to obviate the petitioner charge of willful absence. In these circumstances, conduct of the petitioner being incorrigible definitely points towards the willful absence to be an act attributable to the petitioner solely.

ABSENCE OF ADMISSIBLE EVIDENCE SUFFICIENT TO UPHOLD GUILT AND PENALTY:

6(ii). *Secondly,* even during the course of Regular Departmental Inquiry held under Rule 16.24 of the PPR Rules, as applicable in Himachal Pradesh, the petitioner has not placed on record any cogent and convincing documentary evidence revealing her absence was either due to medical grounds or other convincing reasons which were admissible and permissible in law.

NON-CHALLENGE TO INQUIRY REPORT:

6(iii). *Thirdly,* Inquiry Officer submitted the

Inquiry Report in June, 2010 [*Annexure A-6*]. The said Report was received by the Disciplinary Authority on 08.07.2010 [as per records]. Petitioner has not laid a challenge to the Inquiry Report [*Annexure A-6*] in instant proceedings. Meaning thereby, that the charges in the Inquiry Report stood proved and there is no challenge to the Inquiry Report, the findings of charge having been proved was certainly stand in the way of the petitioner also.

NON-FILING OF REPLY TO INQUIRY REPORT DISENTITLES PETITIONER FROM ASSAILING PENALTY:

6(iv). *Fourthly*, after receipt of Inquiry Report on June/08.07.2010 [*Annexure A-6*], the Disciplinary Authority issued a show cause notice on 06.08.2010 [*Annexure A-7*] directing the petitioner to submit a reply to the Inquiry Report within 15 days. Perusal of page 58 of the paper book, establish that though the show cause notice dated 06.08.2010 [*Annexure A-7*] was served on the petitioner at her residence on 07.08.2010 but the petitioner chose not to submit a Response-Reply to the finding contained in the Inquiry Report. Non-furnishing of Response-Reply to

the Show Cause Notice, disentitles the petitioner from laying a challenge to the ultimate decision of discharge i.e. Impugned Orders.

INCORRIGIBILITY, LEADING TO PENALTY AS PER STATUTORY RULE, IS VALID:

6(v). *Fifthly,* the Order of Discharge dated 25.08.2010 [*Annexure A-8*] has been passed by the Commandant 5th IRBn Bassi on 25.08.2010 [*Annexure A-8*] by invoking the provision of Rule 12.21 of PPR, as applicable in Himachal Pradesh. For appreciating the invocation of Rule 12.21 Rules, the Rules read as under:-

> "12.21. **Discharge or inefficient**—A constable who is found unlikely to prove an efficient police officer may be discharged by the Superintendent at any time within three years of enrolment. There shall be no appeal against an order of discharge under this rule."

Reference to Rule 12.21 as extracted above, leaves no ambiguity in the impugned orders dated 25.08.2010 [*Annexure A-8*] discharging the petitioner from service. Rule 12.21 was rightly and validly been invoked for the reason that once the petitioner had remained willfully absent from 19.02.2010 to

06.04.2010 but had submitted the medical certificates only for 13 days from 18.02.2010 to 23.03.2010 then, the absence being willful for remaining period is fully established. The incorrigibility of petitioner is further established during the course of Inquiry, when, the petitioner proceeded on 4 days casual leave/sanctioned leave on 16.04.2010 and she was supposed to join back for training/duty on 22.04.2010 but she failed to do so, despite issuance of notices dated 24.04.2010 and 06.05.2010, which were duly served on her on 10.05.2010, through a messenger-Station House Officer Haroli. Admittedly, the petitioner did not rejoin back till issuance of suspension order on 28.05.2010 [*Annexure A-4*] and thereafter. Even, no Medical Certificate has been placed on record so as to assert that the absence from 22.04.2010 to 28.05.2010 was not willful. Failure to submit any admissible, cogent and convincing documentary evidence to establish that the absence was not willful either during the course of Inquiry or to the Disciplinary Authority, therefore, the Inquiry Officer has validly held the charge(s) as proved against the petitioner.

In absence of any documentary evidence, the only derivable conclusion is that the *absence of the petitioner was willful and the petitioner was incorrigible to be an efficient Police Officer as is mandatorily required under Rule 12.21 of the Police rules.* Since the petitioner was recruited as a Lady Constable on 01.01.2010 and she *remained absent on two occasions*, as referred to above and that too willfully and without intimating the department and without submitting documentary evidence or Medical Certificates to assert that the absence was not willful but was reasons beyond her control then, the absence of the petitioner established absence as willful, led to passing the Impugned Order of Discharge on 25.08.2010 [*Annexure A-8*] within a period of 8 months of her appointment and joining and that too during the constabulary training period, suffers from no infirmity. Accordingly the Impugned Order is upheld.

NO INFIRMITY OR ILLEGALITY IN DEPARTMENTAL INQUIRY :

6(vi). *Sixthly,* Learned Counsel for the petitioner has not been able to assert and establish that for the absence period from 23.04.2010 to 31.05.2010, was

claimed to be on account of ailment, no Medical Certificates were submitted. Absence of documentary evidence disentitles the petitioner for any relief for failure to disprove the established charge of willful absence. Moreover, the charge of willful absence having been established in Regular Departmental Inquiry which was held in accordance with law, does not warrant any interference or interdiction by this Court. Petitioner has failed to point out any perversity in Inquiry Report. Learned counsel has not been able to establish the violation or infraction of Service Rule 16.24, [governing Departmental Inquiry], in the instant proceedings.

PARAMETERS FOR JUDICIAL REVIEW NOT FULFILLED IN INSTANT CASE:

6(vii-a) Scope of interference in the disciplinary proceedings cannot be for re-appreciating the evidence or to act as Court of Second appeal against the findings recorded by the Inquiry Officer in disciplinary proceedings. Such interference cannot be resorted to when the Inquiry was held by Competent Authority and there is no violation of the principle of natural justice. Interference cannot be resorted to, when,

there is nothing on record to show that relevant considerations were ignored/extraneous consideration were taken into consideration during the course of inquiry, which led to proof of charges in June, 2010 [*Annexure A-6*]. Besides this, nothing has been shown that the conclusion arrived by the Inquiry Officer was contrary which has no reasons could have reached. Non-furnishing of cogent and convincing evidence so as to disprove or negate the charge of willful absence also disentitles the petitioner for any relief in instant proceedings. It is not a case of any evidence. Once the petitioner had chosen to remain willful absent on two occasions then, it is for the petitioner to assert and establish that her absence was not willful. Nothing has been placed on record during the course of Departmental Inquiry that the absence was not willful but was on account of the reasons beyond the control of the petitioner either due to ailments based on Medical Certificate for entire period or other valid and reasonable grounds. Plea that the petitioner remained under treatment of Tantrik(s) cannot be accepted, when, the alleged

treatment in case of Government Servant-petitioner is not permissible for seeking treatment so as validate absence. Even, the assertion regarding alleged Tantrik was not established, as neither such person was summoned nor examined. Nothing of this sort was led in evidence. Once the available evidence on record, establishes that the petitioner is chose to remain willful absent for which she was directed to rejoin duties on 24.04.2010 and 06.05.2010 and these notices were duly served on 10.05.2010 but she chose to remain absent; for reasons known to her then, the plea of willful absence is fully established. In these circumstances, the decision making process for placing the petitioners under suspension and in initiating and conducting the disciplinary proceedings leading to the Inquiry Report holding the charges as proved and non furnishing reply to Inquiry Report and the resultant Impugned Order of Discharge dated 25.08.2010 [*Annexure A-8*] does not warrant any interference or judicial review, in fact-situation of instant case. While dealing with the parameters of judicial review in disciplinary proceedings, the Hon'ble Supreme Court in

Union of India and others versus **P. Gunasekaran, (2015) 2 SCC 610**, held outlined that:

> 12. 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 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 reappreciation of the evidence.
>
> The **High Court can only see whether:**
>
> a. the enquiry is held by a competent authority;
> b. the enquiry is held according to the procedure prescribed in that behalf;
> c. there is violation of the principles of natural justice in conducting the proceedings;
> d. the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;
> e. the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;
> f. the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;
> g. the disciplinary authority had erroneously failed to admit the admissible and material evidence;

h. the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

i. the finding of fact is based on no evidence

6(vii-b) In **Director General of Police, Railway Protection Force and Others** versus **Rajendra Kumar Dubey, (2021) 14 SCC 735**, Three Judges of the Hon'ble Supreme Court has re-enforced the parameters for interference in the disciplinary proceedings, in the following terms:

> "**21.1** We will first discuss the scope of interference by the High Court in exercise of its writ jurisdiction with respect to disciplinary proceedings. It is well settled that the High Court must not act as an appellate authority, and re-appreciate the evidence led before the enquiry officer. We will advert to some of the decisions of this Court with respect to interference by the High Courts with findings in a departmental enquiry against a public servant.
>
> **21.2** In *State of Andhra Pradesh* v. *S. Sree Rama Rao*, a three judge Bench of this Court held that the High Court under Article 226 of the Constitution is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is not the function of the High Court under its writ jurisdiction to review the evidence, and arrive at an independent finding on the evidence. The High Court may, however, interfere where the departmental authority which has held the proceedings

> against the delinquent officer are inconsistent with the principles of natural justice, where the findings are based on no evidence, which may reasonably support the conclusion that the delinquent officer is guilty of the charge, or in violation of the statutory rules prescribing the mode of enquiry, or the authorities were actuated by some extraneous considerations and failed to reach a fair decision, or allowed 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. If however the enquiry is properly held, the departmental authority is the sole judge of facts, and if there is some legal evidence on which the 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 writ petition."

6(vii-c) In **State of Rajasthan and others** versus **Bhupendra Singh 2024 SCC Online SC 1908**, while dealing with the scope of judicial review in disciplinary proceedings, the Hon'ble Supreme Court mandated that though the Court not to act as an Appellate Authority so as to reassess the evidence adduced, if any, in domestic disciplinary proceedings in the following terms:

> 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.'**

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:

> '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.*

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.***

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.*

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."

6(vii-d). While dealing with the case of dismissal of a Constable under the Punjab Police Rules, the Hon'ble Supreme Court in State **of Punjab and others versus Ex. C. Satpal Singh 2025 SCC Online SC 1848,** has reiterated that the interference in disciplinary-

domestic Inquiry cannot be undertaken so as to reassess entire evidence so as to come another conclusion. Non-compliance of Rules or perversity in the orders is to be resorted to by the Writ Court. Upholding the absence from duty and the resultant dismissal the Hon'ble Supreme Court held as under:

> "31. In light of the judicial precedents cited above, when the factual matrix of the present case is appreciated, it is seen that the reference to the fact of forfeiture of 17 years of service of the respondent as a result of his absence from service on previous occasions was in exclusion or independent of the misconduct for which the enquiry officer has found him guilty. The consideration of the past misconduct of the respondent was not the effective reason for dismissing him from the service. The disciplinary authority had mentioned the past misconduct of the respondent only for adding the weight to the decision of imposing the punishment.
>
> 33. In the facts of the present case, it is clear that the **respondent was dealt by the department earlier on three occasions having remained absent from duty and the penalties were inflicted for the same. It is the fourth time when he remained absent to which, a charge-sheet was issued and his guilt was found proved**. He himself had not cross-examined the departmental witnesses and also had not produced any witness in his defense. Considering all these aspects and having found proved his misconduct, notice to show cause from dismissal was issued to the respondent. *The disciplinary*

> *authority, while imposing the penalty, had merely referred the past conduct and also given weight to the gravest act of misconduct*. The order of dismissal is not based on the charge of "cumulative effect of continued misconduct proving incorrigibility and complete unfitness for police service". **Therefore, mere reference of the past conduct would not amount to constitute dismissal of the respondent based on the second limb of Rule 16.2(1). In our view, the High Court was not justified to apply the principle of K. Manche Gowda (supra)** while setting aside the judgment passed by the two Courts. As such, it is concluded that the **dismissal of the respondent was based on gravest act of misconduct, for which he was dealt with by the disciplinary authority following the procedure as prescribed and in due observance of principles of natural justice, hence, we do not find any fault in the same.** Accordingly, the present appeal stands allowed setting aside the judgment of the High Court. In consequence, suit filed by the respondent/plaintiff stands dismissed. In the facts, parties to bear their own costs."

Based on the factual matrix and the mandate of law enunciated by the Hon'ble Supreme Court in the cases of in **P. Gunasekaran, Rajendra Kumar Dubey, Bhupendra Singh and Ex. C. Satpal Singh** (supra), this Court has not hesitation to hold that the order of discharge dated 25.08.2010 [*Annexure A-8*] and the order dated 22.04.2010 [*Annexure A-12*]

rejecting the appeal does not suffer from any perversity, illegality or arbitrariness. The absence on the face of it is willful and the petitioner had failed to prove during Departmental Inquiry that the absence was not willful but was for reasons beyond her control. Petitioner has failed to disprove-negate the charge of willful absence, in view of the fact that during the constabulary training, on fresh recruitment the petitioner remained absent from 19.02.2010 to 06.04.2010 [for 47/48 days but she submitted Medical Certificate for 13 days from 18.02.2010 to 23.03.2010] and for period of willful absence on second occasion from 22.04.2010 to 31.05.2010 i.e. neither any intimation for leave/absence nor Medical Certificate nor any other cogent and permissible evidence was furnished to the department or even produced during the disciplinary proceedings. The said inquiry report has been admitted being not assailed and even the opportunity given to the petitioner to submit a response to the show cause notice remained unavailed leading to inference of acquiescence against the petitioner as she had nothing to say against

the findings in the Inquiry Report, then, the impugned order of discharge does not suffer from any infirmity and moreover, when the evidence on record, leads to the only conclusion that the absence was willful. Even the act and conduct of the petitioner in not furnishing any cogent and convincing documentary evidence, either based on medical certificates or otherwise to assert and establish that the absence from 23.04.2010 to 31.05.2010 was on account of medical exigencies or other permissible grounds in law. In these circumstances, the act and conduct disentitle the petitioner for any relief.

8. Case needs to be tested from another angle. For want of documents or other admissible evidence, the petitioner has failed to assert and establish that the absence was not willful but was on account of medical ailment or other permissible reasons. The petitioner was appointed as a Constable on 01.01.2010 [*Annexure A-1*]. She was made to undergo the training on appointment since January, 2010. It was during training that she remained absent on two occasions i.e. for 48 days from

19.02.2010 to 06.04.2010 and then from 22.04.2010 to 31.05.2010 during a span of only 5 months. Incorrigible act and conduct of the petitioner which is borne out her willful absence [which remains un-rebutted], is sufficient to uphold the Impugned Orders of Discharge dated 25.08.2010 [*Annexure A-8*] and the orders dated 22.04.2015 [*Annexure A-12*] dismissing the service appeal.

9. Learned Counsel for the petitioner states that the petitioner is a poor lady and is at the verge of starvation. The aforesaid plea cannot come to the rescue of the petitioner, for the reason, that once the Impugned Orders were passed after due departmental inquiry, leading to the proof of charges. Sympathy shall not over turn the ways and balances in favour of the petitioner. There is nothing on record to show that despite absence the act of State as such which shocks the conscious of this Court rather, the facts revealing a different story altogether. Absence being willful, which remains undisputed/unrebutted and is established from the records during the course of inquiry and even before

the writ court, no interference is called for and the Impugned Orders of Discharge dated 25.08.2010 [*Annexure P-8*] and the Impugned Order dated 22.04.2015 [*Annexure A-12*] rejecting the appeal does not suffer from any infirmity, perversity or illegality and the same are upheld.

DIRECTIONS:

10. In view of the above discussion and for the reasons recorded hereinabove, the present petition **is dismissed**, *in the following terms:*

> "(i) Order dated 25.08.2010 [*Annexure A-8*], discharging the petitioner from the post of Lady Constable during her training period is upheld;
>
> (ii). Order dated 22.04.2015 [*Annexure A-12*] rejecting the service appeal of the petitioner, considering the entire fact is upheld, which was passed after affording a personal hearing to the petitioner on 21.05.2015 [at page 72 of the paper book] being part of Annexure A-12;
>
> (iii) Parties to bear respective costs.

In aforesaid terms, the instant petition is disposed of along with all pending miscellaneous application(s), if any, shall also stand disposed of.

(Ranjan Sharma)
Judge

18th November, 2025
[himani]