(2025) 12 P&H CK 0019

Punjab And Haryana HC

Case No: Civil Writ Petition No. 16064 Of 2001(O&M)

Sant Ram		APPELLANT
	Vs	
State Of Haryana And Others		RESPONDENT

Date of Decision: Dec. 15, 2025

Acts Referred:

- Constitution Of India, 1950-Article 226, 227

Hon'ble Judges: Jagmohan Bansal, J

Bench: Single Bench

Advocate: Amit Chaudhary, Japneet Singh, Ashok Kumar Khubbar

Final Decision: Dismissed

Judgement

Jagmohan Bansal, J

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of promotion of respondents No. 3 to 5 and direction to respondent to promote him.

2. The petitioner is claiming that he should be promoted to the rank of DSP from the date respondents No. 3 to 5 were promoted. The petitioner joined Punjab Police Force as Constable on 07.01.1962 and was allocated to Haryana Police Force on 01.11.1966. He was promoted from time to time. He was promoted as Inspector in 1992 and brought on List F on 24.06.1992. He requested respondent to bring him on List F from the date his juniors were brought. He submitted representation but to no avail.

3. Learned counsel for the petitioner submit that petitioner was entitled to promotion from the date his juniors were promoted.

4. The respondent has rejected his claim on the ground of adverse remarks in his ACR. The respondent in compliance of order dated 19.07.2000 of this Court passed in CWP No. 9110 of 2000 passed order dated 30.10.2000 (Annexure P-9) wherein it

was noticed that there were serious adverse remarks in his ACR for the year 1985-86. He earned average reports in 1983-84 and 1987-88. He was awarded punishment of Censure 13 times during 1981 to 1987. For misconduct, he was awarded punishment of stoppage of one annual increment in 1987.

5. A Constitution Bench in Syed Yakoob Vs K.S. Radhakrishnan, AIR 1964 SC 477 and a two judge bench of the Honble 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.

6. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals. Error of jurisdiction includes order by inferior court or tribunal without jurisdiction or in excess of it or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be 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 the Tribunal, a writ of certiorari 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. Similarly, 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. In dealing with this category of cases, however, High Court must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned 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, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 of the Constitution to issue a writ of certiorari can be legitimately exercised.

7. From the perusal of record, it is evident that the impugned order was passed on the basis of service record. The petitioner was not found eligible for promotion on account of adverse entries in ACR and orders of punishment. Any order setting aside impugned order would amount to substitution of opinion of Authorities which is impermissible. There is no factual or legal infirmity in the impugned order warranting interference.

8. In view of the above discussion and findings, the instant petition deserves to be dismissed and accordingly dismissed.