

**CWP-8989-2024****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****268****CWP-8989-2024****Date of Decision: 09.09.2025****VEER BHAN****....PETITIONER****VERSUS****HARYANA SHEHRI VIKAS PRADHIKARAN & ANR.****....RESPONDENTS****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. RK Malik, Sr. Advocate with
Mr. Samrat Malik, Advocate and
Mr. Kartikey Chaudhary, Advocate
for the petitioner

Mr. Arun Kumar Singla, Asst. AG Haryana.

Mr. Arvind Seth, Advocate
for the respondents.

HARPREET SINGH BRAR, J. (ORAL)

1. The present writ petition has been filed under Article 226 of the Constitution of India in the nature of *certiorari* for quashing the order dated 10.05.2023 (P-9) by which Chief Administrator HSVP, Panchkula has imposed the penalty of 10% permanent cut in pension of the petitioner and further quashing of order dated 15.02.2024 (P-11) vide which statutory revision filed by the petitioner against the above-said order has been dismissed.

2. Learned counsel for the petitioner *inter alia* contends that the impugned orders dated 10.05.2023 (Annexure P-9) and 15.02.2024 (Annexure P-11), which impose and uphold a penalty of

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10% permanent cut in pension, are patently illegal, arbitrary, and violative of the principles of natural justice. It is argued that the very foundation of the impugned action is the two charge-sheets dated 24.09.2014 and 12.01.2017, which had previously formed the basis for the petitioner's compulsory retirement, an order that was stayed and effectively quashed by this Hon'ble Court in CWP No. 7467 of 2017, being stigmatic. To punish the petitioner again on the identical set of charges constitutes a clear case of double jeopardy. Counsel further asserts that the charge-sheet dated 24.09.2014, pertaining to an RTI matter, stands completely demolished by the testimony of the prosecution's own witness, Sh. Ram Chander (Annexure P-12), who admitted that the information sought did not pertain to the petitioner. Regarding the charge-sheet dated 12.01.2017, it is submitted that the petitioner acted strictly in accordance with approved plans and procedures, a fact supported by the detailed sequence of events explained in his replies, which were not considered by the authorities. A grave legal infirmity pointed out is the revisional authority's reliance on the petitioner's past conduct specifically, seven charge-sheets that never resulted in punishment and an incident from the year 2000 where the petitioner was honourably acquitted by a criminal court, without issuing any prior notice or providing an opportunity to explain, which is a blatant violation of the law settled in ***Mohd. Yunus Khan v. State of U.P. (2010) 4 SCT 600***. Additionally, the petitioner, who superannuated on 31.03.2019, has been denied his pension and other retiral benefits, including annual increments stopped without any order

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since 2015, his due 2nd and 3rd ACP benefits from 2006 and 2016 respectively, and promotion to the post of Sub-Divisional Engineer from the date his junior was promoted on 14.12.2017, solely on the basis of these untenable charges. It is, therefore, prayed that the impugned orders be quashed and all consequential benefits be released with interest.

3. *Per contra*, learned counsel appearing for the respondents submits that there is a due reference in the show cause notice as inferable from the paper book that past conduct of the petitioner that 'the delinquent was charge-sheeted under Rule 7 in seven occasions and placed under suspension twice in his service career. He was also caught red handed on 16.09.2000 while taking gratification amounting to Rs.10,000/- while posted in the Public Dealing seat.'

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

5. The scope of judicial review in disciplinary matters is narrow and confined to examining whether the inquiry was conducted by a competent authority, followed the prescribed procedure, adhered to principles of natural justice, and whether the findings are based on some evidence or are perverse. The Court cannot act as an appellate authority to re-appreciate evidence. Reliance in this regard may be placed on a Two Judge Bench of the Supreme Court ***Union of India vs. P. Gunasekaran, (2015) 2 SCC 610*** speaking through Justice Kurian Joseph, made the following observations in this regard:



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*“12. Despite the well-settled position, it is painfully disturbing to not that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating 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 Articles 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.*

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

- (i) reappreciate the evidence;*
- (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;*
- (iii) go into the adequacy of the evidence;*
- (iv) go into the reliability of the evidence;*
- (v) interfere, if there be some legal evidence on which findings can be based.*
- (vi) correct the error of fact however grave it may appear to be;*
- (vii) go into the proportionality of punishment unless it shocks its conscience.”*

(emphasis added)

Reliance in this regard may also be made to the judgments

rendered in ***B.C. Chaturvedi vs. Union of India, (1995) 6 SCC 749***



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and *Indian Oil Corpn. Ltd. vs. Ashok Kumar Arora*, (1997) 3 SCC 72.

6. Furthermore, a two-Judge Bench of the Hon'ble Supreme Court in *S.R. Tewari vs. Union of India*, (2013) 6 SCC 602, speaking through Justice B.S Chauhan, made the following observations in this regard:

“ 29. In *Union of India v. R.K. Sharma* [(2001) 9 SCC 592 : 2002 SCC (Cri) 767 : AIR 2001 SC 3053] , this Court explained the observations made in *Ranjit Thakur* [*Ranjit Thakur v. Union of India*, (1987) 4 SCC 611 : 1988 SCC (L&S) 1 : (1987) 5 ATC 113 : AIR 1987 SC 2386] observing that if the charge was ridiculous, the punishment was harsh or strikingly disproportionate it would warrant interference. However, the said observations in *Ranjit Thakur* [*Ranjit Thakur v. Union of India*, (1987) 4 SCC 611 : 1988 SCC (L&S) 1 : (1987) 5 ATC 113 : AIR 1987 SC 2386] are not to be taken to mean that a court can, while exercising the power of judicial review, interfere with the punishment merely because it considers the punishment to be disproportionate. **It was held that only in extreme cases, which on their face, show perversity or irrationality, there could be judicial review and courts should not interfere merely on compassionate grounds.**

30. The findings of fact recorded by a court can be held to be perverse if the findings have been arrived at by **ignoring or excluding relevant material or by taking into consideration irrelevant/inadmissible material. The finding may also be said to be perverse if it is “against the weight of evidence”, or if the finding so outrageously defies logic as to suffer from the vice of irrationality. If a decision is arrived at on the basis of no evidence or thoroughly unreliable evidence and no reasonable person would act upon it, the order would be perverse.** But if there is some evidence on record which is acceptable and which could be relied upon, the conclusions would not be treated as perverse and the findings would not be interfered with. (Vide *Rajinder Kumar Kindra v. Delhi Admn.* [(1984) 4 SCC 635 : 1985 SCC (L&S) 131 : AIR 1984 SC 1805] , *Kuldeep Singh v. Commr. of Police* [(1999) 2 SCC 10 : 1999 SCC (L&S) 429 : AIR 1999 SC 677] , *Gamini Bala Koteswara Rao v. State of A.P.* [(2009) 10 SCC 636 : (2010) 1 SCC (Cri) 372 : AIR 2010 SC 589] and *Babu v. State of Kerala* [(2010) 9 SCC 189 : (2010) 3 SCC (Cri) 1179] .)

31. **Hence, where there is evidence of malpractice, gross irregularity or illegality, interference is permissible.**”



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(emphasis added)

In terms of ***S.R. Tewari vs. Union of India, (2013) 6 SCC 602***, interference is warranted where the decision is "wholly arbitrary, capricious, or perverse" or where there is a "manifest error or illegality". A finding is perverse if it is based on no evidence, ignores relevant material, or considers irrelevant material.

7. Before applying the above principles to the facts, it is essential to reaffirm a fundamental principle of our judicial and quasi-judicial process "the requirement of a reasoned order".

8. A constitutional Bench of the Hon'ble Apex Court in ***S.N. Mukherjee v. Union of India, (1990) 4 SCC 594*** speaking through Justice S.C Agrawal made the following observation,

"40. For the reasons aforesaid, it must be concluded that except in cases where the requirement has been dispensed with expressly or by necessary implication, **an administrative authority exercising judicial or quasi-judicial functions is required to record the reasons for its decision.**"

(emphasis added)

Further a Two Judge bench of the Hon'ble Supreme Court in ***Assistant Commissioner, Commercial Tax Dept. vs. M/s Shukla & Brothers, (2010) 4 SCC 785*** speaking through Justice Swatanter Kumar observed that,

"12. At the cost of repetition, we may notice, that this Court has consistently taken the view that recording of reasons is an essential feature of dispensation of justice. A litigant who approaches the Court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer. **Reasons are the soul of orders. Non-recording of reasons could lead to dual infirmities; firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These**



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principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. A judgment without reasons causes prejudice to the person against whom it is pronounced, as that litigant is unable to know the ground which weighed with the Court in rejecting his claim and also causes impediments in his taking adequate and appropriate grounds before the higher Court in the event of challenge to that judgment. Now, we may refer to certain judgments of this Court as well as of the High Courts which have taken this view. (emphasis added)

9. The conscience of the law is satisfied only when justice is not only done but is also seen to be done through the medium of recorded reasons. As held by the Constitution Bench in **S.N. Mukherjee (supra)**, the requirement to record reasons is a vital check against arbitrary exercise of power. This principle applies with greater vigour to judicial and quasi-judicial orders. In **M/s Shukla & Brothers (supra)**, this Court emphatically held that "reasons are the soul of orders" and that "non-recording of reasons could lead to dual infirmities; firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice." Further, in **Raj Kishore Jha vs. State of Bihar, (2003) 11 SCC 519**, the Apex Court crystallized the principle thus: "Reason is the heartbeat of every conclusion. Without the same, it becomes lifeless." An order without reasons is anathema to a system of justice based on the rule of law.

10. It transpires that the statement of the prosecution witness, Sh. Ram Chander (P-12), is unequivocal. He admits that the information sought under the RTI application did not pertain to the

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petitioner. A charge that is not proven by the department's own evidence cannot form the basis for any punishment. The impugned orders, to the extent they rely on this charge, are unsustainable and are vitiated by perversity as they are based on no evidence. Further, the allegation in the charge-sheet dated 12.01.2017, is not proved and the petitioner has explained in the reply to show cause notice dated 09.05.2023 and also in the revision petition on the strength of the undisputed factual position that Sh. Mange Ram has given the possession to the allottee on 14.10.2004 and thereafter, the allottee has filed a representation that he has been given lesser area. This representation was examined by the Estate Officer and the District Town Planner, Hisar and on 24.08.2007 vide letter No.28430, it was communicated to the allottee that he can take possession on any working day. The petitioner was posted at Hisar upto 17.01.2008 and the allottee has never approached the petitioner. Thereafter, the petitioner was transferred on 17.01.2008 from the Estate Office, HUDA, Hisar to Sirsa Division. It was only in the year 2014 that the allottee requested for taking over the physical possession. The petitioner has handed over the possession to the allottee in terms of effective order passed by the Chief Administrator, Department of Town and Country Planning, Panchkula. As such, the petitioner has played no role either in delaying or handing over the possession or rejecting any representation made by the allottee. The specific grounds taken in this regard by the petitioner has neither been considered by the

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punishing authority nor by the revisional authority and no such reasons has been given to discard this admitted factual position.

11. Further, the revisional authority, in its order (P-11), has explicitly relied upon the petitioner's past service record, including seven charge-sheets (which did not result in punishment) and an incident from 2000 where the petitioner was later acquitted by a criminal court. This approach is *per incuriam*.

12. Further reliance may be placed on a Two Judge Bench of the Hon'bel Apex Court in ***Mohd. Yunus Khan vs. State of U.P., (2010) 10 SCC 539***, which speaking through Justice B.S Chouhan made the following observations,

"36. In view of the above, we reach the following inescapable conclusions :-

I. Absence of appellant from duty as Guard Commander for 25.minutes was bonafide and permissible under the statutory rules.

II. Imposition of punishment of punishment drill for 10 days for the said absence was unwarranted.

III. Protest by the appellant against the imposition of the said punishment could not warrant enhancement of punishment of the appellant for confinement in cell for ten days.

IV. Disobedience of the enhanced punishment could not, in this case, warrant initiation of disciplinary proceedings by the Commandant concerned against the appellant.

V. The Commandant could not himself become the Judge of his own cause.

VI. The Commandant could not appoint his own subordinate as the inquiry officer.

VII. The Commandant could have referred the matter to his superior officer for appropriate action in terms of Rules 1991 VIII. Once the Commandant concerned appeared as a witness himself in the enquiry, he could not pass the order of punishment.

IX. The Authority who initiated the disciplinary proceedings against the appellant became a witness before the inquiry officer appointed by him, who is subordinate to him in his office and also accepted the enquiry report and passed the



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order of punishment Thus, the order of punishment stood vitiated.

X. The Appellate Authority could not consider the past conduct of the appellant to justify the order of punishment passed by the disciplinary authority without bringing it to the notice of the appellant.

XI. As the punishment order had been passed in violation of the statutory rules and the principles of natural justice as well, it is rendered null and void. Thus, it remained inexecutable.

XII. Past conduct of an employee should not generally be taken into account to substantiate the quantum of punishment without bringing it to the notice of the delinquent employee.

XIII. The error of violating the principles of natural justice by the Disciplinary Authority has been of such a grave nature that under no circumstance can the past conduct of the appellant, even if not satisfactory, be taken into consideration. (emphasis added)

13. As settled by the Hon'ble Apex Court in **Mohd. Yunus Khan (supra)** it is clear and unequivocal that if the disciplinary authority wants to consider the past conduct of an employee in imposing a punishment, the delinquent is entitled to a specific notice thereof. The past conduct, which did not result in any punishment or where the employee was acquitted, cannot be relied upon surreptitiously to justify a subsequent punishment. The petitioner was never put to notice that his past, unproven charges and an acquittal would be used against him in the present proceedings. This denial of opportunity vitiates the order. Reliance on unproven allegations and an acquittal is a classic case of considering irrelevant material.

14. The revisional authority's order does not contain any analysis of how these past events, even if assumed to be relevant, rationally connect to the present charges or justify the enhanced penalty. It merely parrots a conclusion solely on the basis of order

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passed by the punishing authority. This is precisely the kind of "rubber-stamp" reasoning that was condemned by the Hon'ble Supreme Court in ***Union of India vs. Mohan Lal Capoor, (1974) 2 SCC 836***. The Court held that "the most that could be said for the stock reason is that it is a general description of the process adopted in arriving at a conclusion." Such an "apology for reasons" does not satisfy the mandatory requirement of a reasoned order. Reasons are the links between the material and the conclusion. Not even a whisper is made in the impugned order either by the Punishing Authority or the revisional Authority dealing with the explanation provided by the petitioner. The impugned order (P-11) is rendered void on these grounds.

15. The revisional authority's order (P-11) is conspicuously silent on dealing with the specific and cogent explanations offered by the petitioner in his reply and revision petition. A reasoned order must deal with the contentions raised. Failure to do so renders the order arbitrary and in violation of the principles laid down in ***M/s Shukla & Brothers (supra)***.

16. In light of the above, this Court is constrained to hold that the findings against the petitioner, leading to the punishment of a permanent pension cut, are based on a mix of no evidence and irrelevant material. The process is vitiated by a violation of the principles of natural justice and the impugned orders (P-9 & P-11) are, therefore, wholly arbitrary, capricious, suffer from the vice of perversity, and are unreasoned orders in the eyes of law.

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17. For the reasons recorded hereinabove, the present writ petition is allowed.

18. The impugned order No. EA-1-2023/87140 dated 10.05.2023 (Annexure P-9) passed by the Chief Administrator, HSVP, Panchkula, and the impugned order dated 15.02.2024 (Annexure P-11) passed by the Addl. Chief Secretary, Town & Country Planning, Haryana, are hereby quashed and set aside.

19. Respondent No.1 is directed to release all the consequential benefits to the petitioner along with the pensionary benefits, notional promotion and admissible ACP within a period of two months from the date of receipt of certified copy of this order.

(HARPREET SINGH BRAR)
JUDGE

09.09.2025

NainaRajput

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No