

CWP-24971-2019 (O&M)

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

**CWP-24971-2019 (O&M)
Date of decision : 09.09.2019**

Jawahar Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Suresh Kumar Redhu, Advocate
for the petitioner.

AMIT RAWAL, J. (ORAL)

Notice of motion.

Ms. Shruti Jain Goyal, DAG, Haryana accepts notice for respondents.

The short point involved in the present case is that in pursuance of charges levelled against the petitioner and other delinquent employees, Enquiry Officer, vide his report dated 27.06.2018, exonerated him, however, the punishing authority i.e. Superintendent of Police, Palwal, vide show cause notice dated 29.08.2018, called upon petitioner for imposition of punishment of stoppage of one future annual increment by recording alleged disagreement.

Learned counsel for petitioner submitted that there are neither separate reasons assigned for disagreement nor any opportunity of hearing granted, which is against the law laid down by Hon'ble Supreme Court in **Punjab National Bank Vs. Kunj Behari Misra (1998) 7 SCC 84** and

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unreported judgment of this Court rendered in **CWP No.20044 of 2013** titled as **'Rajesh Kumar Vs. State of Haryana and others'** decided on 30.06.2015.

He further submitted that entire process is vitiated in law, which is not in tandem with principles of natural justice and relevant Rules. Had aforementioned requirement been complied with, there would not have been an occasion for censuring petitioner.

Per contra, Ms. Shruti Jain Goyal, DAG, Haryana, submits that as per contents of writ petition, she does not dispute position of law regarding recording of disagreement as held by Hon'ble Supreme Court in **Punjab National Bank Vs. Kunj Behari Misra (1998) 7 SCC 84.**

I am of the view that it would be a farcical exercise in keeping writ pending, as I deem it appropriate to remit matter to Superintendent of Police, Palwal or any other punishing authority to comply with requirements of law as extracted in para 16 of judgment rendered by Hon'ble Supreme Court in Kunj Behari Misra's case (supra), which reads as under:-

“16. The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7(2). As a result thereof whenever the disciplinary authority disagrees with the inquiry authority on any article of charge then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the inquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favorable conclusion of the inquiry officer. The principles of natural justice, as we have already observed, require the authority, which has to take a

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final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer.”

In view of aforementioned facts, impugned orders (Annexures P-5, P-7, P-8 and P-10) are set aside.

Let entire exercise be undertaken within a period of three months from the date of receipt of certified copy of this order from the stage of receipt of enquiry report.

Writ petition stands disposed of in above terms.

09.09.2019

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned	Yes/ No
Whether Reportable	Yes/ No