

CWP-18017-1995

2024:PHHC:171155-DB



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

**CWP-18017-1995 (O&M)
Date of Decision: December 19, 2024**

Ravi Bala Jain

..... Petitioner

Versus

State of Punjab and another

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. H.V. Jain, Advocate for the petitioner.

Mr. R.S. Pandher, Sr. DAG, Punjab.

Mr. Sanjeev Sharma, Senior Advocate with
Mr. Jugansh Goyal, Advocate and
Ms. Deepali Puri, Advocate for respondent No. 2.

LISA GILL, J.

1. Prayer in this writ petition is for:

“issuance of a writ in the nature of certiorari/mandamus for quashing the disciplinary proceedings initiated vide charge sheet dated 20.11.1991 (Annexure P2) and also Annexures P/6, P/8, P/10 and P/11 as well as the Enquiry Report dated 12.04.1994 (Annexure P/12) and the dismissal order based thereupon dated 19.05.1995 (Annexure P/14) and for directing the respondents to reinstate the petitioner in service with all consequential benefits.”

2. It is pleaded that petitioner subsequent to her selection in the competitive examination held by Punjab Public Service Commission in the

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year 1982 for Punjab Civil Services (Judicial) Branch on 01.03.1984, joined service on 01.03.1984. She was designated as Sub-Judge IInd Class-cum-Judicial Magistrate First Class in September 1984 and Sub Judge-cum-Judicial Magistrate First Class in April/May 1987. It is further pleaded that petitioner continued to serve with honesty, complete dedication and to entire satisfaction of her superiors. However, certain pseudonymous complaints were received against petitioner. It is stated that the said complaints were actually submitted by or at the instance of one advocate, namely Mr. M.S. Chauhan. It was duly noted by learned Inspecting/Administrative Judge of the District where petitioner was serving, in his note dated 18.10.1989, that on receipt of pseudonymous complaints giving details of the cases and allegations of receipt of illegal gratification by the petitioner, it was felt necessary to examine the files of the referred cases. Complaints were kept pending and were ordered to be put up at the time of annual inspection. It is further noted therein that on his visit to the Bar room the entire Bar Association levelled allegations of corruption against the petitioner. The then Inspecting/Administrative Judge directed District and Sessions Judge (Vigilance), Punjab on 18.10.1989, to hold an inquiry in the allegation levelled against petitioner. It was noted that allegations raised in respect to Suit No. 241 of 1987, Suit No. 92/84/86, file case No. 321 of 1987 called for further probe and it was so directed. In respect to complaints in seven other matters, allegations were found to be baseless not calling for any further probe. Copy of this order/note dated 18.10.1989 is attached as Annexure P1 with the writ petition. Said course of action was approved by Hon'ble the then Chief Justice on 21.11.1989. Preliminary inquiry was conducted by the District and Sessions Judge (Vigilance) who submitted his report on 23.03.1991, holding that a prima facie case for holding

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regular inquiry was established against the petitioner. Under orders of Hon'ble the then Acting Chief Justice, District and Sessions Judge, Ropar was asked vide letter dated 29.04.1991 to obtain explanation of the Officer of the petitioner who requested for inspection of relevant record on 03.05.1991. She was allowed to inspect the record, vide communication dated 15.05.1991. Explanation dated 16.05.1991 was submitted by her after inspecting the record and learned Administrative Judge recommended initiation of departmental proceedings and the matter placed before the Full Court by Hon'ble the then Acting Chief Justice on 08.07.1991. Full Court vide its decision dated 02.08.1991 decided that charge sheet be issued to petitioner. Charge sheet was then issued on 20.11.1991.

3. Charge sheet dated 20.11.1991 (Annexure P2) was served upon the petitioner. Articles of charge against her, read as under:

"I. That you, while posted as Sub-Judge-Cum-Judicial Magistrate at Phillaur, demanded money from the parties in many cases (mentioned in the enclosed List of Documents at Sr. No. 1 to 11) which were pending in your Court, either by calling them to your retiring room or your house or contacted them through the persons of your confidence and then bargained with them and thereafter decided the cases in favour of the parties who had paid you more or did not decide or decided against the party where illegal consideration was not forthcoming. Thus you indulged in corrupt practices, and did not maintain absolute honesty, integrity and devotion to duty. You have also brought the prestige of the Judiciary in to disrepute and thus acted in a manner totally unbecoming of a Judicial Officer.

II. While dealing with the Civil Suit No. 241/87 titled as Piara Singh Vs. Kishan Chand, you had intentionally delayed the cause by giving unnecessary adjournments, especially when

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you were required to dispose of the matter within one month of the final conclusion of evidence as per instruction communicated by this Court's circular letter No. 23758-Gez./TX-4,5. dated November 29, 1973.”

4. Statement of imputation of misconduct as detailed, reads as under:-

“I. 1. In Civil Suit No.92/94/86, titled as Nasib Singh Versus Amarjit Kaur, the arguments had been heard on 28.9.88 and which had been adjourned to 30.9.88 for orders and that instead of pronouncing the judgement, you adjourned the case to 7.10.88, 12.10.88, 15.10.88, 18.10.88, and 19.10.88 and on 19.10.88 at about 4.30 p.m. Shangara Singh son of Narib Singh who used to attend the court in this case was asked by the peon to go to your retiring room and that you demanded Rs.30,000/- to decide the case in his favour and that the settlement was made at Rs.25,000/- and that you adjourned the case to 26.10.88 when he handed over the amount of Rs.25,000/- to you in your retiring room at about 4.30 p.m. and that you adjourned the case to 27.10.88 and then to 29.10.88 and then 31.10.88 on which date you dismissed this suit and returned the amount of Rs.25,000/- to him (Shri Shangara Singh) on 29.10.88 because you had taken Rs.40,000/- from other side and decided the case in their favour.

2) Shri Shalinder Singh who was accused in the case under Section 304-A I.P. C. in Suit No. 3/2/87, titled as State Vs. Shalinder Singh, which was pending in your court, had transported your luggage from Kharar to Phillaur in his tempo when you were transferred to Phillaur and carried bricks and sand as well as 4 times in his tempo to the house of your maternal relations which was under construction at Ludhiana and that your brother demanded Rs.5,000/- more in your presence as consideration for his acquittal in that case after the

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arguments had been heard. As he could not afford the said amount, he was convicted by you vide order dated 17.1.90.

(3) Shri Bakshi Ram was plaintiff in the Civil suit No.395/86, titled as Bakshi Ram Vs. Bhagat Ram regarding the dispute of his drain. After the closing of evidence in that case, he was called by you at your house where you demanded Rs.5,000/- from him to decide the case in his favour, when he showed his inability to pay that amount, you called Shri Mohan Lal who was defendant in that case in your retiring room who remained with you for about half-an-hour and you decided the case against him (Shri Bakshi Ram).

(4) Shri Tilak Raj was accused under Section 409 I.P.C. in case No.8/2 of 1987 to 13.2.1987 titled as State Vs. Tilak Raj, FIR No. 246 dated 31.12.1982, which was pending in your court at Phillaur. He went to your residence as he had heard that you accepted bribe and talked to you whereon you demanded Rs.50,000/- from him saying that you would close the prosecution evidence by your orders and then would acquit him, as the case had already been adjourned 3-4 times for prosecution evidence and the settlement was made at Rs. 20,000/-. He told about it to his counsel Shri Rachpal Singh, Advocate. On the next date, you had been transferred and so he had not paid you any amount.

(5) Sohan Lal was defendant in the Civil Suit No. 299/87, titled as Kishan Chand and Hardev Lal V. Sohan Lal and others, which was pending in your court at Phillaur. Ex-parte temporary injunction restraining him not to use the firm's name and Sales Tax number had been issued by your predecessor. Shri Suresh Goel Advocate suggested him that he should pay Rs.5,000/ which he would further pay to you and the temporary injunction would be vacated. He (Sohan Lal) refused to oblige you. In the month of December, 1988, he went to your house at 2.30 p.m. as he had seen Hardev Lal and Surjit Kumar, the opposing party alongwith Balraj, Clerk of Ravi Parkash Advocate going to your house and some amount

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in bundles was lying on the table in your drawing room which you immediately took to your bed mom and he (Sohan Lal) was brought out of your house by Shiv Kumar Peon and he told about this matter on that very day to his counsel, Shri M.S. Chauhan and Shri Manjit Singh Advocate well and he got prepared an affidavit on that very day in that regard and sent it to the Distt. and Session Judge, Jalandhar. Four or five days thereafter Shri Suresh Kumar Goel Advocate and your steno/typist got his signatures on a blank stamp paper so that he should not prosecute the complaint against you. He (Sohan Lal) was taken to your house after lunch interval alongwith Sh.S.K. Goel, Advocate and Manjit Singh and you assured him that you would vacate the temporary injunction and that he should not produce the compliant against you. Your stenographer by that time had also bought the aforesaid stamp paper duly typed which had been got signed from him. It was got attested at your house from Sh. Manjit Singh, Oath Commissioner, who was present there. But you had not decided that application and kept it pending giving adjournments till you were transferred.

(6) In the Criminal case No. 24/3 of 1987 titled 'State Vs. Malkiat Singh', under Section 25 of the Arms Act, which had been fixed for 22.12.88 for arguments you had granted adjournment for 24.12.88 for orders. But instead of pronouncing order you had been adjourning it several times for orders till the inspection of the Courts by Hon'ble Mr. Justice J.S. Sekhon in March, 1989. Malkiat Singh had been called by you in your retiring room and you demanded Rs.2500/- for deciding the case in his favour which he could not pay and you pronounced the orders in the second week of March a few days before inspection.

(7) In Civil Suit No. 56 of 1989 titled, Charanjit Vs. Chhinda alias Surinder Kaur Shri Kashmir Singh Malhi was counsel for defendant and Kashmir Singh husband of defendant used to pursue that case as her attorney. After the close of the evidence

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when the case had been adjourned for arguments, Kashmir Singh came to Shri Kashmir Singh Malho Advocate and told that you had called her (Kashmir Singh's wife) and demanded Rs.5,000/- for deciding the case in their favour. He had not paid that amount and you had decided the case against the defendant.

(8) Kishan Singh was a plaintiff in the case Kishan Singh vs. Jagir Singh in Civil suit No. 21/86-304 of 1987. Shri Suresh Kumar Goel was the counsel in that case who told Gurmej Singh son of Kishan Singh that you wanted to talk to him and that he should meet you at your house. When he went to your house and met you, you demanded Rs. 20,000/- to decide the case in his favour which he could not afford and you decided the case against him.

(9) Shri Gurbinder Singh Atwal Advocate Phillaur was counsel in Civil Suit No.73/87, titled as Bachno Ram Vs. Kartar Chand pending in your Court at Phillaur had been fixed for arguments. He was called through a peon in that case by you. At that time, he (Sh. Gurbinder Singh Atwal Advocate) was standing with other Advocates vs. S/Sh. Purshotam Singh Gill, Chanan Singh Dayal, M.S. Gulati, etc. in the Court complex. He (Shri Atawal) told there that it was a weak case and he wanted to get adjournment, Shri M. S. Chauhan, Advocate, also came there. He (Shri Chauhan) enquired from him (Shri Atwal) that whether his client could pay some money to you to get decision in his favour. He(Shri Atwal) enquired from plaintiff Bachna, his client, who was standing nearby who said that he would pay Rs.5,000/- for that purpose and then Shri M.S. Chauhan had written on a chit of Bus ticket the particulars of the case and below it Rs.5,000/- and that he was going to Jagadhri and that the case be adjourned. He gave that chit to you and you adjourned the case and 3-4 days thereafter his client Bachna paid Rs.5000/- to Shri M.S. Chouhan and on that next hearing you yourself suggested that the plaint be amended and then the case could be decided in favour of the plaintiff as told by Shri

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Chauhan and that he gave application for amendment. He further stated that Kartara defendant of that case was his neighbour who told him that Rs.7,000/- had been paid by him to you to get the decision in his favour and Rs.5,000/- was returned to Shri Bachna by Shri M.S. Chauhan. Shri Kishan Lal, Tea Stall Vendor of the Court complex used to proclaim that he could get the cases decided from you if the amount demanded by you was given and that he (Sh. Gurbinder Singh Atwal Advocate) had seen him going to your house and the court as well and giving the chits to you in the court room in the cases to be decided and that there were also some other persons of this type doing such like things.

10. Shri Kashmir Singh Malhi, Vice President Bar Association Phillaur was counsel for the plaintiff in the Civil Suit No.791/86, titled as Rachpal Kaur Vs. Gurdev Singh for the recovery of compensation for the murder of the husband of the plaintiff and that the arguments in that case were partly heard by you when you adjourned it for remaining arguments. His client Rachpal Kaur thereafter told him that you had called her in your Retiring Room and demanded Rs.10,000/- for deciding the case. That suit had been decreed for Rs.80,000/- in favour of Rachpal Kaur and she had told him that she paid the amount of Rs.10,000/- to you for deciding the case in her favour and she had told him about this before the pronouncement of the order.

II. In Civil Suit No.241 of 1987 titled 'Piara Singh Versus Krishan Lal' which was a money suit for the recovery of Rs.50,000/- on the basis of a pronote, the defendant was ordered to be proceeded against ex-parte on October 20, 1987 by you, with the remarks that the defendant had refused to accept service and the notice was also affixed at his residence. Thereafter the ex-parte evidence of the plaintiff was concluded on December 6, 1987 after granting three adjournments. The case was then posted for consideration on December 12, 1987. Thereafter it was adjourned to December 17, 1987. On the latter date, the service of the defendant was ordered to be

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affected again, as it came to your notice that the report of the process server regarding refusal of the defendant was not attested by any witness. The defendant was again proceeded against *ex parte* on June 14, 1988 when he failed to appear in court after his service through publication in the daily newspaper Chardikala. The case was then adjourned to August 6, 1988 for *ex parte* evidence. The plaintiff closed his evidence on the later date and the case was then adjourned to August 20, 1988 for consideration. It was still pending for consideration and had been fixed for December 17, 1988, when the file was called by this Court on the complaint by Sh. Piara Singh. The suit was originally filed through Shri Bikramjit Singh Advocate Phillaur but thereafter Shri B.K. Shama/Sh.M.S. Chauhan were engaged by the plaintiff as his counsel. You were required to dispose of the matter, within one month of the final conclusion of evidence as per instructions circulated vide No. 23758-Gaz/IX.A.5. dated November 29, 1973, especially when the suit is based on the promissory note and the plaintiff had led *ex parte* evidence regarding its due execution by the defendant. But you had intentionally prolonged the aforesaid case for a long period, because the plaintiff could not pay any amount to you.

All this shows that you indulged in corrupt practices, and did not maintain absolute honesty and integrity and devotion to duty. You have brought the prestige of the Judiciary into disrepute and thus acted in a manner totally unbecoming of a Judicial officer.”

5. Petitioner requested for supply of record to enable her to submit reply to the chargesheet. The same was allowed. Request by petitioner for extension of time, vide communication dated 04.12.1991 was declined by the then Chief Justice on 10.12.1991. Record was inspected by the petitioner on 18.12.1991 and 19.12.1991. Reply dated 07.01.1992 (Annexure P3) submitted

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by petitioner to the chargesheet was forwarded by District and Sessions Judge vide communication dated 07.01.1992. On 27.07.1992, it was resolved by Full Court to hold regular departmental inquiry against petitioner. Mr. B.L. Gulati, District and Sessions Judge (Vigilance), Haryana was appointed Inquiry Officer. Petitioner's request to engage counsel was allowed by the then Acting Chief Justice on 04.09.1992. Her application for change of venue of inquiry was declined by Inquiry Officer on 08.02.1993. Her request for change of Inquiry Officer submitted on 04.03.1993, was declined by the then Chief Justice on 18.03.1993. Request dated 17.05.1993 for supply of orders of appointment of Inquiry Officer was allowed. However, her request submitted yet again for change of Inquiry Officer on 24.05.1993 was declined by the then Chief Justice on 02.08.1993. Inquiry Report dated 12.04.1994 was submitted by the Inquiry Officer holding that charge No. I was proved substantially and charge No. II wholly. On 28.04.1994, it was resolved by Full Court that notice be issued to the petitioner to show cause as to why report of Inquiry Officer be not accepted. Show cause notice dated 23.06.1994 (Annexure P12) was issued to the petitioner. Reply dated 16.09.1994 was submitted by petitioner. Full Court on 13.02.1995, found said reply to the show cause notice to be unsatisfactory. Consequently, dismissal of petitioner from service was recommended to the State Government. Vide order dated 19.05.1995, penalty of dismissal from service with immediate effect was passed. Charge was relinquished by the petitioner on 23.05.1995. Aggrieved therefrom, present writ petition was filed by petitioner, which was admitted vide order dated 16.01.1998.

6. Learned counsel for petitioner vehemently argued that petitioner has been victimized in this matter and entire proceedings against her have

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been carried out against applicable provisions of law and in complete violation of principles of natural justice. It was argued that the entire problem started with a grudge being held against petitioner, by one Advocate namely Mr. M.S. Chauhan, whose personal cases were pending in her Court. When petitioner did not oblige him by granting the relief he sought, he turned inimical towards her and hatched a conspiracy alongwith a small group of lawyers of the Bar in question. As many as ten pseudonymous complaints were filed before the Inspecting/Administrative Judge, out of which, seven were found outrightly false as is mentioned in the note dated 18.10.1989 (Annexure P1) by the Inspecting/Administrative Judge. It was submitted that in fact there were two Bar Associations of Advocates at Phillaur and when preliminary inquiry was entrusted to Mr. Mewa Singh, District and Sessions Judge (Vigilance), six Advocates on their own came and suffered statements before Mr. Mewa Singh. Learned counsel for petitioner submitted that show cause notice was issued on 17.06.1994 but Inquiry Report was given to the petitioner much after it was accepted by the Full Court. Furthermore, the Inquiry Officer had no jurisdiction to consider and carry on with the proceedings, as the inquiry was marked to the District and Sessions Judge (Vigilance), whereas Officer in question even after being transferred to Ambala carried on with the inquiry when admittedly did not hold the charge of District and Sessions Judge (Vigilance). It was strenuously argued that Inquiry Officer was biased, against the petitioner right from the very beginning and has proceeded illegally to even inflict the punishment, when he stated in para 61 of the Inquiry Report that petitioner had no right to remain in service. Furthermore, Inquiry Officer has decided the charges on the basis of surmises and conjectures. Plethora of evidence available in favour of petitioner has been illegally discarded. It was

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also contended that no reason whatsoever has been recorded by respondent No. 2 for accepting the Inquiry Report. Reasons should necessarily have been given for acceptance of the report as well. Furthermore, the petitioner was not permitted to summon the defence witnesses. The witnesses Piara Singh, G.S. Chahal and Rashpal Kaur were not called by the Inquiry Officer. Moreover, as per Rule 5 of the Punjab Civil Services Rules, penalty of dismissal can only be imposed on sound and reasonable grounds, which are conspicuous by their absence in the proceedings in question. While referring to the individual charges statedly proved as per the Inquiry Officer, learned counsel for petitioner submitted that in respect to charge No. I(1) Inquiry Officer did not consider the fact that money was allegedly demanded by Clerk of counsel Ravi Prakash and was paid to said person only. There is no evidence to indicate that any amount was accepted by petitioner from either of the parties. In respect to charge No. I(2), it was submitted that evidence of DW5 was not considered. The case in question was never decided in favour of Shailender Singh. In respect to charge No. I(3) yet again there is no evidence to prove the allegations. Evidence of DW8 and DW17 was incorrectly ignored. Charge No. I(5), it was argued was also decided on the basis of surmises and conjectures and in respect to charge No. I(9), Inquiry Officer did not take into consideration, the affidavit submitted by Mr. M.S. Chauhan, Advocate wherein he specifically declared that he did not know any Bachna neither had he received sum of Rs.5,000/- or any other amount from him and he had no knowledge regarding pendency of any such case nor Mr. G.S. Atwal, Advocate had ever talked to him. Inquiry Officer, it is stated, also did not consider affidavit Ex.DW21/1 dated 04.09.1993 of Rashpal Kaur. In respect to charge No. II, evidence of DW16 Piara Singh, it was contended, was not

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considered. Piara Singh had denied having submitted any complaint against the petitioner.

7. Grave prejudice, it is submitted, was caused to petitioner when her applications for change of Inquiry Officer were declined by Hon'ble the Chief Justice of this Court on his own whereas necessary decision should have been taken by the Full Court. It was contended that a blemish free career of such long years was not taken into consideration by the authorities before passing the order of dismissal. It was, thus, prayed that this writ petition be allowed and impugned order dated 19.05.1995 and Inquiry Report etc. be set aside,

8. Per contra, learned counsel for respondents have opposed the prayer as addressed while submitting that there is sufficient material on record to indicate proving of charges against the petitioner. Learned senior counsel for respondent No. 2 submitted that entire proceedings were carried out in strict accordance with the applicable principles and there is no lapse whatsoever in the procedure followed. At each and every step, the requisite procedural requirements were complied with and allegation that proper opportunity was not afforded to the petitioner is not borne out from the record. It was submitted that Inquiry Report dated 12.04.1994 was duly supplied to petitioner alongwith show cause notice dated 23.06.1994. Argument raised by learned counsel for petitioner that the report was supplied to her after the Full Court decision is stated to be incorrect inasmuch as vide its decision dated 28.04.1994 Full Court at that stage had decided that notice be issued to the Officer to show cause as to why report of Inquiry Officer be not accepted. Decision in this respect was taken subsequently, on 13.02.1995, after considering the reply submitted by petitioner to show cause notice which was

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submitted by the petitioner after much delay on 16.09.1994. All allegations of bias or prejudice on the part of Inquiry Officer or any other authority were vehemently denied being incorrect. Request of petitioner to change Inquiry Officer was correctly rejected by the then Hon'ble Chief Justice, who was fully authorized to do so. Said action was never challenged at that stage by petitioner. Moreover, Inquiry Officer has duly recorded qua number of allegations, that there is no material to prove the same which in itself shows that there is no element of bias or prejudice as has been argued. Serious allegations against petitioner were proved which indicated that she was not fit to be retained on the prestigious post being held by her. It was thus, prayed that this writ petition be dismissed, being devoid of any merit.

9. We heard learned counsel for parties at length and have gone through the file with their able assistance.

10. It is a matter of record that petitioner when serving as Sub-Judge IInd Class-cum-Judicial Magistrate First Class was served with charge sheet dated 20.11.1991. Regular departmental inquiry was held against her in which charge No. I(1), (2), (4), (9) and (10) were found proved while finding no substance in Charge No. I(3), (5), (6), (7) and (8). Charge No. II was found to be proved wholly as per Inquiry Report dated 12.04.1994. Petitioner was ultimately dismissed from service vide order dated 19.05.1995.

11. Learned counsel for petitioner as well as petitioner who had also presented her case before us, argued that impugned order dated 19.05.1995 is liable to be set aside on the grounds that:-

(1) Proper procedure was not followed for conducting departmental inquiry and for proceeding against petitioner.

(2) Inquiry officer was biased against petitioner right from the very beginning which was apparent from hasty manner in

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which the inquiry was conducted, petitioner was not allowed to even cross examine the witnesses and inquiry officer even proceeded to propose the punishment in his inquiry report.

(3) Report was based on surmises and conjectures without adherence and advertence to the relevant material on record.

(4) Request for change of inquiry officer was incorrectly rejected, same should have been decided by Full Court and not by the Chief Justice.

(5) Order of punishing Authority is a non-speaking order. Even when inquiry report has to be accepted, it is incumbent upon the authority to assign specific reasons for its acceptance.

(6) Blemish free career of petitioner was not taken into consideration while passing the order of punishment.

12. At this stage, it is relevant to refer to Rule 8 of Punjab Civil Services (Punishment and Appeal) Rules, 1970, which reads as under:-

“8. Procedure for imposing major penalties (1) -No order imposing any of the penalties specified in clauses (v) to (ix) of rule 5 shall be made except after an inquiry held, as far as may be in the manner provided in this rule and Rule 9 or the manner provided by the Public Servants (Inquiries) Act 1850 (37 of 1850), where such inquiry is held under that Act.

(2) Whenever the punishing authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government employee, it may itself inquire into, or appoint under the provisions of the Public (Inquiries) Act 1850, as the case may be, an authority to inquire into the truth there of.

Explanation: - Where the punishing authority itself holds the inquiry, any reference in sub-rules (7) to (20) and in sub-rule (22) to the inquiring authority shall be construed as a reference to the punishing authority.

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(3) Where it is proposed to hold an inquiry against a Government employee under this rule and rule 9, the punishing authority shall draw up cause to be drawn up:

(i) the substance of imputation of misconduct or misbehaviour into definite and distinct articles of charges;

(ii) a statement of imputation of misconduct or misbehaviour in support of each article of charge, which shall contain-

(a) a statement of all relative facts including any admission or confession made by the Government employee;

(b) a list of documents by which and a list of witnesses by whom, the articles of charge are proposed to be sustained.

(4) The punishing authority shall deliver or cause to be delivered to the Government employee, a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of document and witness by which each article of charge is proposed to be sustained and shall require the Government employee to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person.

(4-A) If on receipt of written statement of defence, the punishing authority is of the opinion that any of the penalties specified in clauses (i) to (iv) of rule 5 should be imposed on the Government employee and for that reason the punishing authority does not consider it necessary to enquire into the articles of charges for imposing any of the penalties specified in clauses (v) to (ix) of rule 5, it shall, after following the procedure specified in rule 10, make an order imposing any of the penalties specified in clauses (i) to (iv) of rule 5.

(5) (a) Subject to the provision of sub rule (4-A) on receipt of the written statement of defence, the punishing authority may itself inquire into such of the articles of charges as are not admitted or, if it consider it necessary so to do, appoint under sub- rule (2), an inquiring authority for the purpose, and where all the articles of charges have been admitted by the Government employee in his

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written statement of defence, the punishing authority shall record its finding on each charge after taking such evidence as it may think fit and shall act in the manner laid down in rule 9;

(b) If no written statement of defence is submitted by the Government employee, the punishing authority may itself inquire into the articles of charge or may, if it considers it necessary to do so, appoint under sub-rule (2), inquiring authority for the purpose.

(c) Where the punishing authority itself inquires into any article of charge or appoints an inquiring authority for holding an inquiry into such charge, it may by an order appoint a Government employee or a legal practitioner, to be known as the 'Presenting Officer' to present on its behalf the case in support of the articles of charge.

(6) The punishing authority shall, where it is not the inquiring authority, forwards to the inquiry authority-

(i) a copy of the article of charges and the statement of the imputation of misconduct or misbehaviour;

(ii) a copy of written statement of defence, if any submitted by the Government employee;

(iii) a copy of the statements of witnesses, if any referred to in sub-rule (3);

(iv) evidence proving the delivery of the documents required to be delivered to the Government employee under sub-rule (4);

(v) a copy of the order appointing the "Presenting Officer".

(7) The Government employee shall appear in person before the inquiring authority on such day and at such time within ten working days from date of receipt by him of the articles of charge and the statement of the imputations of misconduct or misbehaviour as the inquiring authority may, by a notice in writing, specify in this behalf. or with in such further time not exceeding ten days, as the inquiry authority may allow.

(8) The Government employee may take the assistance of any other Government employee or a retired Government employee to present the case on his behalf, but may not engage a legal

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practitioner, or the punishing authority having regard to the circumstances of the case, so permits.

(9) If the Government employee who has not admitted any of the articles any of charge in his written statement of defence or has not submitted any written statement of the defence, appears before the inquiring authority shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of the charge. The inquiring authority shall records the plea, sign the record and obtain the signature of the Government employee thereon.

(10) The inquiring authority shall return a finding of guilt in respect of these articles of charges to which the Government employee pleads guilty.

(11) The inquiring authority shall if the Government employee fails to appear within the specified time or refuses or omits to plead, require the Officer to produce the evidence by which he proposes to prove the articles of charges, and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the Government employee may for the purpose of preparing his defence-

- (i) inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow, the documents specified in the list referred to in sub-rule (3);
- (ii) submit a list of witnesses to be examined on his behalf;
- (iii) Apply orally or in writing for the supply of copies of the statements, if any recorded, of witness mentioned in the list referred to in sub-rule (3), in which case the inquiring authority shall furnish to him such copies as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the punishing authority; and
- (iv) Give a notice within ten days of the order or within such further time not exceeding ten days, as the inquiring authority may allow for the discovery or production of any

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documents which is in the possession of Government, but not mentioned in the list referred to in sub-rule (3) and the Government employee shall also indicate the relevance of the document required by him to be discovered or produced by the Government.

(12) The Inquiring Authority shall on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the documents by such date as may be specified in such requisition;

Provided that the inquiring authority may, for reason to be recorded by it in writing: refuse to requisition such of the documents as are in its opinion not relevant to the case.

(13) On receipt of the requisition referred to in sub-rule (12) every authority having the custody or possession of the requisitioned documents shall produce the same before the inquiring authority;

Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reason to be recorded by it in writing that the production of all or any or such document would be against the public interest or security of the State, it shall inform the inquiring authority accordingly and the inquiring authority shall on being so informed, communicate the information to the Government's employee and withdraw the requisition made by it for the production or discovery of such documents.

(14) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be or on behalf of the punishing authority.

The witnesses shall be examined by or on behalf of the Government employee. The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined but not on any new matter, without the

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leave of the inquiring authority. The inquiring authority may also put such question to the witnesses as it thinks fit.

(15) If it shall appear necessary before the close of the case on behalf of the punishing authority, the inquiring authority may, in its discretion, allow the presenting officer to produce evidence not included in the list given to the Government employee or may itself call for new evidence or recall and re-examine any witness and in such case the Government employee shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the date of adjournment and the day to which the inquiry is adjourned. The inquiring authority shall give the Government employee an opportunity of inspecting such documents before they are taken on the record. The inquiry authority may also allow the Government employee to produce new evidence if it is of the opinion that the production of such evidence is necessary in the interest of justice.

Provided that new evidence shall not be permitted or called for or any witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally;

(16) when the case for the punishing authority is closed, the government employee shall be required to state his defence orally or in writing as he may prefer. If the defence is made orally it shall be recorded and the Government employee shall be required to sign the record. In other case a copy of the statement of defence shall be given to the Presenting Officer if any appointed.

(17) The evidence on behalf of the Government employee shall then be produced. The Government employee may examine himself on his own behalf, if he so prefers either at the

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outset or after the conclusion of examination of the witnesses produced by him. The witnesses produced by the Government employee shall then be examined and shall be liable to cross examination, re-examination and examination by the inquiring authority according to the provision applicable to the witness for the punishing authority.

(18) The inquiring authority may, after the Government employee closes his case, and shall, if the Government employee has not examined himself, generally question him on the circumstances, appearing against him in the evidence for the purpose of enabling the Government employee to explain any circumstances appearing in the evidence against him.

(19) The inquiring authority may, after the completion of the production of evidence hear the presenting officer, if any appointed and the government employee or permit them to file written brief of their respective cases, if they so desire.

(20) If the Government employee to whom a copy of the articles of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this rule, the inquiring authority may hold the inquiry ex-parte.

(21) (a) Where a punishing authority competent to impose any of the penalties specified in clauses (i) to (iv) of rule 5 but not competent to impose any of the penalties specified in clauses (v) to (ix) of rule 5 has itself inquired into or caused to be inquired into or caused to be inquired into the articles of any charge and that authority, having regard to its own findings or having regard to its decision on any of the findings of any inquiring authority appointed by it, is of opinion that the penalties specified in clauses (v) to (ix) of rule 5 should be imposed on the Government employee, that authority shall forward the records of the inquiry to such punishing authority as is competent to impose the last mentioned penalties.

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(b) The punishing authority to which the records are so forwarded may act on the evidence on the record or may, if it is of the opinion that further examination of any of the witnesses is necessary in the interest of justice, recall the witness and examine. cross-examine and re-examine the witnesses and may impose on the Government employee such penalty as it may deem fit in accordance with these rules.

(22) Whenever any inquiring authority after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein and is succeeded by another inquiring authority which has and which exercises such jurisdiction, the inquiring authority so succeeding may act on the evidence so recorded by its predecessor and partly recorded by itself.

Provided that if the succeeding inquiring authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, it may recall, examine, cross examine and examine any such witnesses as herein before provided.

(23) (i) After the conclusion of the inquiry, a report shall be prepared and it shall contain:-

(a) the articles of charge and the statement of the imputations of misconduct or misbehaviour:

(b) the defence of the Government employee in respect of each article of charge: (c) an assessment of the evidence in respect of each article of charge:

(c) an assessment of the evidence in respect of each article of charge;

(d) The findings on each article of charge and the reasons therefore.

Explanation: If in the opinion of the inquiring authority the proceedings of the inquiry establish any article of charge different from the original articles of the charge, it may record its finding on such article of charge.

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Provided that the findings on such article of charge shall not be recorded unless the Government employee has either admitted the facts on which article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.

(ii) The inquiring authority where it is not itself the punishing authority shall forward to the punishing authority the records of inquiry which shall include -

(a) the report prepared by it under clause (1);

(b) the written statements of defence, if any submitted by the Government employee;

(c) the oral and documentary evidence produced in the course of the inquiry,

(d) written brief, if any filed by the Presenting Officer, or the Government employee or both during the course of the inquiry; and

(e) the others, if any, made by the punishing authority and the inquiring authority in regard to the inquiry.”

13. A careful perusal and scrutiny of the file reveals that requisite procedure has been duly followed in the inquiry which was conducted against petitioner. At each and every step, opportunity of inspecting the record was afforded to the petitioner. She was given ample opportunity of hearing and presenting her case. In respect to allegations regarding preliminary inquiry, it is to be noted that such inquiry is conducted merely to find out prima facie correctness of allegations. There is no requirement of allowing an opportunity to the Officer to cross examine the witnesses at this stage, as was urged. Pursuant to charge sheet dated 20.11.1991 being issued to her, opportunity was afforded to petitioner for submitting her reply after examining the record. Inquiry Officer was appointed and petitioner was permitted to engage a counsel vide order dated 04.09.1992 passed by the then Acting Chief Justice.

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As many as 14 witnesses were examined in support of allegations against petitioner and on behalf of the petitioner/judicial officer, 22 witnesses were examined. Upon submission of Inquiry Report dated 12.04.1994, it was resolved by the Full Court that notice be issued to petitioner to show cause as to why said report submitted by Inquiry Officer be not accepted. Show cause notice dated 23.06.1994 was issued. Copy of Inquiry Report was also supplied to her and petitioner was afforded opportunity to file reply to show cause notice. Reply was submitted by her on 16.09.1994. It is upon considering the entire facts and circumstances, that Full Court found reply to show cause notice to be unsatisfactory and it was recommended on 13.02.1995 that petitioner be dismissed from service, leading to passing of order dated 19.05.1995. In the given facts and circumstances, we do not find any procedural lapses in the conduct of inquiry, as strenuously urged before us by learned counsel for petitioner and the petitioner herself.

14. Learned counsel for petitioner vehemently argued that Inquiry Officer was biased against petitioner from the very outset. However, we do not find any material on record to substantiate such allegations. It is to be noted at this stage itself that Inquiry Officer has found charge No. I(3), (6), (7), (8) to be not proved and charge No. 1(5) to be partly proved while finding the other charges to be proved against petitioner. The very fact that Inquiry Officer has gone ahead to hold said charges to be not proved, in itself, shows that there was no bias, inherent or otherwise against the petitioner. Refusal to change the venue in itself does not indicate bias and neither has it lent any prejudice to petitioner, which would vitiate the inquiry proceedings. Reasons for refusal of change in the venue is succinctly explained in the Inquiry Report itself as well as written statement filed on behalf of respondent. It is succinctly

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explained that venue of inquiry had been fixed at Phillaur because witnesses belonged to that area. Details of dates on which inquiry proceedings were listed are clearly mentioned in reply to para 11 of the writ petition. Proceedings were started on 02.09.1992, 15.10.1992, 18.11.1992, 21.12.1992 and 22.12.1992. Eight witnesses of Department were examined on 21.12.1992 and 22.12.1992 and were duly cross examined by petitioner through her lawyer. Proceedings were adjourned for 28.01.1993 to be held at Chandigarh on which date, two witnesses were present but on request of petitioner, proceedings were adjourned to 22.02.1993. It is duly explained that though Mr. O.P. Goyal, Presenting Officer was not present, Prof. M.M. Katyal was present as Presenting Officer. Proceedings were then conducted at Phillaur as witnesses belonged to said area. Application dated 05.02.1993 for change of venue was rejected vide order dated 08.02.1993, which is duly reproduced in reply to para 13 of writ petition. It is duly recorded in order dated 22.02.1993 which is reproduced in para 14 of written statement (i.e. reply to para 14 of writ petition), that earlier the matter had been adjourned at request of petitioner on the ground that her counsel was not well and that no ground was found for adjourning the matter on the premise that lawyers were on strike for the reason that petitioner on earlier occasions, it was noted, had put and suggested most of questions herself. Petitioner was present when PW9 was examined but she refused to cross examine him and left the premises. It is recorded in the Inquiry Report that in his order dated 22.02.1993, Inquiry Officer duly recorded that as long as petitioner remained present, she behaved in a manner unbecoming of a judicial officer and was accompanied by a gentleman who claimed himself to be her Advocate. Details in this regard are narrated in para 16 of Inquiry Report dated 12.04.1994 and are not being

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reproduced for the sake of brevity. As the petitioner had left after recording of statement of PW9, Inquiry Officer proceeded to record the statements of PWs 10, 11, 12 and 13. In the given factual matrix, we do not find the plea of petitioner that she was not allowed opportunity to cross examine the witnesses to be correct. It was open to her to have cross examined the said witnesses but she herself left the venue. It is further to be noted that inquiry proceedings were adjourned to 03.03.1993. Petitioner was present on the said date but no request, oral or otherwise for cross examining PWs 4 to 13 was addressed. Application was thereafter belatedly filed on 22.03.1993 seeking recall of PWs 9 to 14. Number of adjournments were sought by petitioner, which were duly granted by Inquiry Officer. She ultimately requested for change of Inquiry Officer on 24.05.1993 on the premise that Mr. B.L. Gulati had been transferred from the post of District and Sessions Judge, Haryana (Vigilance) to the post of District and Sessions Judge, Ambala. The request was declined. There is no merit in the argument that inquiry proceedings are vitiated as this request was declined by the then Chief Justice without the matter being placed before Full Court. Nothing was pointed out to indicate that Hon'ble the Chief Justice was not competent to decline the request in question. Argument that Mr. B.L. Gupta, on his transfer from the post of District and Sessions Judge (Vigilance) was not competent to continue with the inquiry is devoid of any merit, hence rejected. It is to be noted that petitioner concluded her defence on 29.01.1994 after examining 22 witnesses. Material on record does not indicate any prejudice or bias on the part of the Inquiry Officer.

15. Learned counsel for petitioner vehemently argued that material on record does not indicate culpability of the petitioner. Detailed arguments were addressed in respect to each of the charges as well as sub-charges of

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Charge I. It is pertinent to note that this Court is not to reappreciate the evidence as if sitting in appeal over the proceedings in question. It has been held by Hon'ble the Supreme Court in **Union of India and others vs. P.**

Gunasekaran 2014 SCC online SC 917 as under:-

“ 13. 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 No. 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 re-appreciation 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;

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i. the finding of fact is based on no evidence.

Under Article 226/227 of the Constitution of India, the High Court shall not:

- (i). re-appreciate 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.”

16. It has been reiterated by Hon’ble the Supreme Court in **The State of Rajasthan and ors. Versus Bhupendra Singh 2024 AIR Supreme Court 4034** 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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17. Even otherwise, perusal of file reveals that Inquiry Officer has not proceeded on the basis of conjectures and surmises but has taken in consideration statements of various witnesses before arriving at findings as recorded. Charge No. I(1) is rightly found to be proved on the basis of statement of PW10 and the case file. Charge No. I(2) is also correctly held to be proved with reference to statement of PW8 who was subjected to lengthy cross examination. It is to be noted that there is no denial of fact that PW8 Shailender Singh who was accused in matter under Section 304A IPC had indeed transported the luggage and construction material as alleged. Charge under I(5) is also correctly held to be proved partly. It is correctly observed that petitioner should not have kept the case with her at all. Merely because she did not decide the case till her transfer, cannot be taken as a fact in her favour. Charge No. I(9) is also correctly held to be proved. There was no reason for PW14, Mr. G.S. Atwal, to have deposed against petitioner. Similarly charge No. I(10) is also correctly found to be proved on the basis of statement of PW9. It is duly noted that judicial Officer was present when this witness PW9 was examined but she refused to cross examine this witness. There could have been no reliance upon evidence of DW21 as has been detailed in Inquiry Report. Charge II was also correctly proved. Complaint was set in motion on the basis of complaint by Piara Singh, who had been cited as witness for Department but was not examined on its behalf with report that he was a cancer patient. Piara Singh, however, appeared as DW16 and denied having made the said complaint. Denial of submission of complaint had come after the suit had been decreed on 27.01.1990 in favour of Piara Singh by an Officer who had joined subsequently on the said post. Even if it

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were to be accepted that once the complainant himself did not accept the submission of compliant, therefore, charge cannot be said to be proved, this by itself cannot negate the other charges being proved against petitioner or lead to vitiation of all proceedings against her. Therefore, argument that inquiry proceedings are vitiated on account of procedure not being followed or malafides on the part of Inquiry Officer is found to be unsubstantiated.

18. We also find no merit in the argument that inquiry proceeding was conducted in a hasty manner. Number of adjournments which were granted at the asking of petitioner herself, negate such an argument. Learned counsel for petitioner had argued that subsequent to Full Court decision dated 28.04.1994, Inquiry Report was supplied on 23.06.1994 alongwith show cause notice. However, there was no application of mind at that point of time by respondent No. 2 and neither any speaking order was passed reflecting acceptance of Inquiry Report. Once there was acceptance of Inquiry Report, reasons for the same should have been recorded and communicated to petitioner. It is to be noticed at this stage that notice dated 23.06.1994 was issued to petitioner to show cause as to why Inquiry Report dated 12.04.1994 be not accepted by the Full Court. At that stage, there is no acceptance of Inquiry Report and an opportunity was afforded to explain as to why it should not be accepted. It is on 13.02.1995 that on finding the reply submitted by petitioner to show cause notice dated 23.06.1994 that her dismissal from service was recommended. It is specifically mentioned in order dated 19.05.1995 that on a careful consideration of Inquiry Report, reply submitted by her and other relevant record, recommendation of Full Court by this High Court for imposition of penalty of dismissal from service was accepted.

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19. In the given circumstances, judgments as relied upon by petitioner i.e. **Managing Director, ECIL vs. B. Karunakar (1993) 4 SCC 727, Siya Ram vs. State of Rajasthan and others in CWP-596-1981** decided on 12.07.1991, **The Siemens Engineering & Manufacturing Co. of India Ltd. vs. Union of India AIR 1976 SC 1785** and **Union of India vs. Mohd. Ramzan Khan 1991 (1) SCC 588**, are of no avail to her.

20. At this juncture, it is relevant to note that argument on behalf of petitioner that she had a blemish free career is not substantiated from the record. Annual Confidential Reports (ACRs) of petitioner recorded during her service and as reproduced in para 3 of written statement read as under:-

1984-85	B Average/Satisfactory
1985-86	B Average/Satisfactory
1986-87	B Average
1987-88	B Average
1988-89	C Integrity Doubtful
1989-90	C Below Average
1990-91	C Integrity Doubtful
1991-92	}
1992-93	} Dispensed with as her judicial work was withdrawn
1993-94	} from 09.08.1991
1994-95	}

21. Abovesaid ACR's and details of complaints, which were received against petitioner in the year 1986, upon which minor penalty of censure was imposed upon her, report dated 29.09.1987 in respect to which she was warned to be careful in future was recorded in her personal file, clearly negate the argument in respect to blemish free record. Said argument is, hence, rejected. Averments that petitioner was victimized at the hands of one Advocate, namely Mr. M.S. Chauhan, are again not substantiated by any

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material on record and cannot be countenanced to wipe away substantial material on record which justifies the punishment of dismissal from service imposed upon her.

22. Learned counsel for petitioner was unable to point out any ground whatsoever which calls for interference by this Court for setting aside impugned order dated 19.05.1995.

23. No other argument has been addressed.

24. Writ petition is, accordingly, dismissed.

(LISA GILL)
JUDGE

December 19, 2024
Rts

(SUKHVINDER KAUR)
JUDGE

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