



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

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CWP-3543-2018 (O&M)
Date of decision: 27.11.2024

Nidhi Pradhan

..Petitioner

Versus

NHPC Ltd. and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. RN Lohan, Advocate for the petitioner.

Mr. Sukhandeep Singh, Advocate for
Mr. Lokesh Sinhal, Advocate for the respondents.

AMAN CHAUDHARY, J. (ORAL)

1. Learned counsel while referring to Clause 38 of NHPC Conduct and Disciplinary Rules, contends that in case the reviewing authority enhances the punishment, a show cause notice is to be issued and that the order of the disciplinary authority was merged with that of the Appellate one, who awarded the punishment of withholding of next increment of pay falling due with cumulative effect vide order dated 19.07.2014 (Annexure P16) however, the same was enhanced to removal without adhering to the provision aforesaid. He thus, prays for a limited relief of reconsideration of the same by granting an opportunity to the petitioner in terms of the said Clause, to which learned counsel for the respondents, on instructions, states that the said authority would not be averse so as to having a relook at the matter.

2. In **Oryx Fisheries (P) Ltd. vs. Union of India**¹, Hon'be the Supreme Court had observed thus:

¹ (2010) 13 SCC 427

2024 PHHC 156850



“24. This Court finds that there is a lot of substance in the aforesaid contention. It is well settled that a quasi-judicial authority, while acting in exercise of its statutory power must act fairly and must act with an open mind while initiating a show-cause proceeding. A show-cause proceeding is meant to give the person proceeded against a reasonable opportunity of making his objection against the proposed charges indicated in the notice.

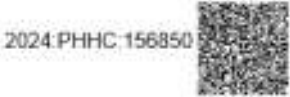
25. Expressions like “a reasonable opportunity of making objection” or “a reasonable opportunity of defence” have come up for consideration before this Court in the context of several statutes. A Constitution Bench of this Court in *Khem Chand v. Union of India* [AIR 1958 SC 300] , of course in the context of service jurisprudence, reiterated certain principles which are applicable in the present case also.

26. Chief Justice S.R. Das speaking for the unanimous Constitution Bench in *Khem Chand* (supra) held that the concept of ‘reasonable opportunity’ includes various safeguards and one of them, in the words of the learned Chief Justice, is: “(a) An opportunity to deny his guilt and establish his innocence, which he can only do if he is told what the charges leveled against him are and the allegations on which such charges are based;”

27. It is no doubt true that at the stage of show cause, the person proceeded against must be told the charges against him so that he can take his defence and prove his innocence. It is obvious that at that stage the authority issuing the charge-sheet, cannot, instead of telling him the charges, confront him with definite conclusions of his alleged guilt. If that is done, as has been done in this instant case, the entire proceeding initiated by the show-cause notice gets vitiated by unfairness and bias and the subsequent proceedings become an idle ceremony.

28. Justice is rooted in confidence and justice is the goal of a quasi-judicial proceeding also. If the functioning of a quasi-judicial authority has to inspire confidence in the minds of those subjected to its jurisdiction, such authority must act with utmost fairness. Its fairness is obviously to be manifested by the language in which charges are couched and conveyed to the person proceeded against.”

3. A sine qua non of a civilized legal system is that quasi-judicial authorities uphold *audi alterem partem* at the core of their functioning, ensuring procedural fairness and propriety. The objectivity of such proceedings must be tangible, with charges clearly articulated in precise terms empowering the individual to mount an informed defense. Justice not only ought to, but must be



done manifestly, to inspire *fiat justitia ruat caelum*. Decisions that lack transparency risk the debilitating of trust that public holds, which is a cornerstone of the juridical apparatus, thus demanding meticulous conformity to principles of natural justice.

4. Without commenting on merits of the case and in light of the foregoing, it would be just and equitable to direct the reviewing authority to have a relook at the matter by granting a fair opportunity to the petitioner and decide afresh, in accordance with law.

5. Disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

27.11.2024
ashok

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