



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
232+110

CWP-3680-2021 (O&M)
Date of decision: 30.10.2025

Kuldeep Singh

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. D.S. Patwalia, Sr. Advocate
with Mr. Gauravjit S. Patwalia, Advocate
Mr. Lagan K. Sidhu, Advocate
and Ms. Seher S. Sandhu, Advocate
for the petitioner.

Mr. Vikas Arora, DAG, Punjab.

Mr. Abhilaksh Gaind, Advocate
with Mr. Rakesh Roy, Advocate
and Ms. Priya Jarial, Advocate
for respondent No.2.

HARPREET SINGH BRAR J. (Oral)

CM-15944-CWP-2025

Prayer in the instant application filed under Section 151 of
CPC is for placing on record the affidavit on behalf of respondent No.2.

Allowed as prayed for subject to all just exceptions.

CWP-3680-2021 (O&M)

1. The present writ petition has been filed under Article 226
of the Constitution of India, for issuance of a writ in the nature of
certiorari, for quashing of impugned order dated 09.02.2021 (Annexure



P-9) passed by respondent No.1. Further prayer has been made to stay the operation of impugned order dated 09.02.2021 (Annexure P-9).

2. Learned Senior counsel for the petitioner, *inter alia*, contends that the impugned order imposing major penalty has been passed by an authority which lacks jurisdiction to pass the said order under Punjab Pollution Control Board Employees Service Regulations, 2002, which provides that the members of the Punjab Pollution Control Board shall be governed by the Punjab Civil Services (Punishment & Appeal) Rules, 1970 (hereinafter 1970 Rules) as amended from time to time by the Punjab Government. Further the authority is empowered to impose the penalties as specified in Appendix D *qua* major penalty, the appointing authority which would be the punishing authority with regard to the cases of Group A and Group B posts would be the Chairman of Punjab Pollution Control Board and the Appellate Authority is the Administrative Secretary of the Department, Government of Punjab. The impugned order has not been passed by the punishing authority in terms of the applicable Rules as provided in Appendix D. Further the impugned order is not sustainable in view of the mandate of Rule 9.2 of the Punjab Civil Services Rules (in short 'Services Rules'), which provides recording of reasons for each disagreement with the finding of the enquiry officer on any article of charge. The impugned order has been passed without recording any dissent or any reason for each disagreement. The counsel has relied on the judgment rendered by the Hon'ble Supreme Court in ***Lav Nigam v.***



Chairman, MD., ITI Ltd. 2007(3) SCT 179 and this court in ***Baldev Singh vs. Punjab State Power Corporation Limited and Others 2025 NCPHHC 123126*** Learned Senior counsel for the petitioner further refers to the report of the enquiry officer (Annexure P-7) wherein the enquiry officer has given a detailed reasoning after adverting to the factual matrix and exonerated the petitioner from all the articles under the statement of charge, however, while passing the impugned order, the respondent No.1 has not followed the drill of Rule 9.2 of the Services Rules and has imposed a major penalty. Respondent No.1 not only lacks the jurisdiction but he has also not adverted to the procedural safeguards provided under the Rules framed in the light of Article 309 of the Constitution of India. He further refers to the written statement filed on behalf of respondent No.1 and submits that the impugned order is being justified on the basis of executive order dated 11.08.2006 available at Page 186 of the writ petition and it is a trite law that the executive instructions cannot supersede or dislodge the prescribed procedure provided under the Rules.

3. *Per contra*, learned counsel for respondent No.2 submits that statutory instructions were issued by invoking the power under Section 18 of the Water (Prevention and Control of Pollution) Act, 1974 to that extent that the Board shall not exercise any power of transfers and disciplinary proceedings in case of Group A, B and C posts and all powers of these posts shall be exercised by the State Government till further orders.



4. Having heard the learned counsels for both the parties and after perusing the records with their able assistance it transpires that the impugned order dated 09.02.2021 (Annexure P-9) has been passed by the Punishing Authority without recording any reasons for its disagreement with the findings of the enquiry officer dated 06.11.2020 (Annexure P-7) which exonerated the petitioner.

5. Reliance in this regard has been correctly placed by the learned counsel for the petitioner on a Two Judge Bench of the Hon'ble Supreme Court in *Lav Nigam (supra)*, which observed that,

*"10. The conclusion of the High Court was contrary to the consistent view taken by this Court that **in case the disciplinary authority differs with the view taken by the inquiry officer, he is bound to give a notice setting out his tentative conclusions to the appellant. It is only after hearing the appellant that the disciplinary authority would at all arrive at a final finding of guilt.** Thereafter, the employee would again have to be served with a notice relating to the punishment proposed.*

*11. In **Punjab National Bank v. Kunj Behari Misra, 1998(3) SCT 833 : AIR 1998 Supreme Court 2713 : (1998)7 SCC 84** a Bench of this Court considered Regulation 7(2) of the Punjab National Bank Officer Employees' (Discipline and Appeal) Regulations, 1977. The Regulation itself did not provide for the giving of any notice before the disciplinary authority differed with the view of the enquiry officer. This Court held at p. 818 of LLJ :*

*"19. 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 enquiry 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 enquiry 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 favourable conclusion of the enquiry officer. **The principles of natural justice, as we have already observed, require the authority which has to take a 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. "*

12. This view has been reiterated in ***Yoginath D. Bagde v. State of Maharashtra, 1999(4) SCT 403 : AIR 1999 Supreme Court 3734 : (1999)7 SCC 739***. In this case also Rule 9(2) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 did not specifically provide for a disciplinary authority to give an opportunity of hearing to the delinquent officer before differing with the view of the enquiry officer. The Court said :

"But the requirement of 'hearing' in consonance with the principles of natural justice even at that stage has to be read into Rule 9(2) and it has to be held that before the disciplinary authority finally disagrees with the findings of the enquiring authority, it would give an opportunity of hearing to the delinquent officer so that he may have the opportunity to indicate that the findings recorded by the enquiring authority do not suffer from any error and that there was no occasion to take a different view. The disciplinary authority, at the same time, has to communicate to the delinquent officer the 'tentative' reasons for disagreeing with the findings of the enquiring authority so that the delinquent officer may further indicate that the reasons on the basis of which the disciplinary authority proposes to disagree with the findings recorded by the enquiring authority are not germane and the finding of 'not guilty' already recorded by the enquiring authority was not liable to be interfered with."

(See also State Bank of India v. K.P. Narayanan Kutty, 2003(3) SCT 743 : AIR 2003 Supreme Court 1100 : (2003)2 SCC 449).

13. We have already quoted the extracts from the show-cause notice issued by the disciplinary authority. It is clear that no notice at all was given before the disciplinary authority recorded its final conclusions differing with the finding of fact of the



inquiry officer. The notice to show cause was merely a show-cause against the proposed punishment. In view of the long line of authorities, the decision of the High Court cannot be sustained. The appeal is accordingly allowed and the decision of the High Court is set aside.”

6. Reliance in this regard may also be placed on Reliance in this regard may also be placed on the judgment rendered by a two-Judge Bench of the Hon'ble Apex Court in ***State Bank of India and Ors. v. Mohammad Badruddin 2019 INSC 764*** and this court in ***Baldev Singh (supra)***.

7. Further still, in ***Raj Kishore Jha v. State of Bihar, (2003) 11 SCC 519***, the Hon'ble 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.

8. Thus it is settled that in case the Punishing authority dissents from the report submitted by the inquiry officer and decides against the interests of the delinquent officer, it must:-

- a. Record a detailed reasons for its dissent.
- b. Give a notice before punishment in terms of its conclusion to the charged employee.
- c. Give an opportunity of hearing to the charged employee.

9. The punishment imposed by punishing authority which dissented from the report of the inquiry officer was without any reason for the dissent and thus, per incuriam violating both procedure established by 1970 Rules and principle laid down by the Hon'ble



Supreme Court. Further the Punishing Authority decided the matter against the delinquent officer, it should have given him an opportunity of hearing as the principles of natural justice would demand that the authority which proposes to decide against the delinquent officer must give him a hearing.

10. In view of the above discussions, the present petition is allowed. Accordingly the impugned order dated 09.02.2021 (Annexure P-9) is set aside. Needless to say, the petitioner is entitled to all consequential benefits.

(HARPREET SINGH BRAR)
JUDGE

30.10.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No