



CWP-3721-2025 (O&M)

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

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CWP-3721-2025 (O&M)
Date of Decision :24.07.2025

Vinod Kumar

...Petitioner

Versus

Punjab and Haryana High Court and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sahil Sharma, Advocate for the petitioner.

Mr. Ajaivir Singh, Advocate for the respondents.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that the order of punishment dated 22.05.2019 (Annexure P/3) passed by the punishing authority has been passed by taking into consideration the past service record of the petitioner but while issuing show cause notice along with enquiry report, no such proposal was made that punishment imposed upon the petitioner will be given while keeping in mind the past conduct of the petitioner as well. Hence, as per the settled principle of law, the impugned order of punishment which has been passed relying upon the past conduct of the petitioner, is incorrect and is liable to be set aside as the same violates principle of natural justice.

2. Learned counsel for the petitioner further submits that even while deciding upon the appeal filed by the petitioner, the past conduct has been kept in notice though, the allegations which were alleged and proved in



the charge sheet, were not of such a serious nature so as to inflict the punishment of dismissal from service upon the petitioner.

3. Upon notice of motion, the respondents have appeared and stated that punishment of dismissal from service imposed upon the petitioner is not solely based upon the past conduct though, the past conduct of the petitioner has been taken into account to arrive at the quantum of punishment.

4. Learned counsel for the respondents further submits that as per the respondents once, the petitioner was a habitual offender, the ultimate decision on the charge sheet has been given by taking into account the anomalies on part of petitioner during total service career of the petitioner hence, the order of punishment passed qua the petitioner is perfectly valid and legal.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. Once, the petitioner was only proceeded against departmentally for not depositing back the 07 summons to the Nazart Branch, the said charge was subsequently proved against the petitioner. It should be noted that the punishment has to be given to an employee on the basis of the charge alleged and proved unless and until while giving the show cause notice along with the enquiry report, the employee concerned is made aware of the fact that even his/her past conduct will be taken into consideration so that he/she has opportunity to give response to the said proposal of the punishing authority as well.

7. In the present case, concededly, no such proposal was brought



to the notice of the petitioner that his past conduct will also be taken into consideration while deciding the quantum of punishment but it should be noted that the past conduct has been taken into account not only by the punishing authority while imposing the punishment but also by the appellate authority while dismissing the appeal, which fact has gone unrebutted.

8. As per the settled principle of law settled by the Coordinate Bench of this Court in **CWP-15001-2008 titled as Parshotam Lal Saini vs. Central Bank of India decided on 07.07.2015**, wherein it has been held that when past conduct has been taken into account by the punishing authority to arrive at a decision qua quantum of punishment and that too without giving opportunity of hearing to the delinquent employee about the said proposal of taking into consideration the past conduct, the punishment imposed cannot be sustained.

9. Learned counsel for the respondents has not been able to controvert the said proposition of law.

10. Not only this, even on the administrative side, in an appeal filed by one Azad Singh being Service Appeal No.11 of 2018, the appellate authority of this Court has held that where the past conduct has been taken into account without there being any notice to the delinquent employee about the same, the punishment imposed upon such an employee, cannot be sustained.

11. Learned counsel for the respondents has not been able to rebut even the said aspect.

12. Keeping in view the facts and circumstances of the present case as noticed hereinbefore, coupled with the settled principle of law cited



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hereinabove, the impugned order of punishment dated 22.05.2019 (Annexure P/3) and order dated 04.10.2023 (Annexure P/5) rejecting the appeal of the petitioner are accordingly set aside.

13. As the punishment is being set aside on technical grounds, learned counsel for the respondents submits the appropriate liberty be given to the punishing authority to proceed afresh against the petitioner from the stage of issuance of show cause notice to the petitioner and thereafter, take appropriate decision as required in the matter.

14. The said liberty has to be given to the respondents as the present case is not being decided on merits but the same has been passed on the basis of technical flaws on part of respondent while imposing the punishment and hence, punishing authority is given liberty to issue a fresh show cause notice to the petitioner and thereafter, proceed in accordance with law.

15. Learned counsel for the respondents submits that as the petitioner has not performed his duties from the date of termination of his services hence, the petitioner be not given the benefit of back wages.

16. Learned counsel for the petitioner after getting instructions from the petitioner, who is also present in the Court, submits that in case the petitioner is reinstated in service within a period of 08 weeks, the petitioner will not claim the benefit of back wages.

17. Keeping in view the same, it is directed that in case, the petitioner is reinstated in service within a period of 08 weeks from the receipt of copy of this order, he will not be entitled for the grant of benefit of back wages as undertaken by the petitioner.



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- 18. Present petition is disposed of in above terms.
- 19. Civil miscellaneous application pending, if any, is also disposed of.

July 24, 2025 (HARSIMRAN SINGH SETHI)
aarti JUDGE
Whether speaking/reasoned : Yes
Whether reportable : No