

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

2025:PHHC:068568



R.S.A. No. 222 of 2001 (O&M)

Date of decision: 20th May, 2025

Parmanand

..Appellant

Versus

**Haryana Urban Development Authority, Panchkula through
its Secretary and another**

..Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA.

Present: Mr. Anshul Gupta, Advocate for appellant.

Mr. Arvind Seth, Advocate for respondents.

SUDEEPTI SHARMA, J(Oral)

1. The present appeal is preferred against the judgment and decree dated 24.08.1994 passed by Sub Judge Ist Class, Chandigarh, whereby the suit challenging the order dated 30.10.1986 passed by the Chief Administrator and order dated 30.08.1988 communicated by the Chief Administrator, HUDA was dismissed and the judgment and decree dated 18.07.2000, whereby, the appeal filed by the appellant was dismissed.

2. Brief facts of the case are that the appellant while working as Kanungo was served with Memorandum No. 15474 dated 06.10.1976 wherein it was mentioned that the Authority proposed to take action against the appellant under Rule 7 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952 and the appellant was charged as under:

“1) That Sh.Parmanand obtained Rs.500/- as illegal gratification from Sh.Ram Piara S/o Dula Ram for getting the later's time barred claim sent to the court of District Judge, Gurgaon.

ii) Sh.Parma Nand in order to get aforesaid ref. of Sh. Ram Piara sent to District Judge, Gurgaon created/got created the false record/evidence to give the application an appearance of having been received in time.

Iii) Sh.Pamanand has destroyed/got destroyed office record i.e. office copy of Land Acquisition Collector Faridabad's letter NO. LAC-72/NTA/2120-22 dated 31-3-1975 and the reference in this connection received from District Judge, Gurgaon.”

3. The appellant submitted reply by denying the charges. Thereafter an Enquiry Officer was appointed who after conducting the enquiry held the appellant partially guilty for charge No.1 and fully guilty for charge No.2 and thereafter he was served with show cause notice dated 08.05.1985 and the appellant filed reply to the same. He was granted personal hearing before the Chief Administrator. Thereafter on 30.10.1986, he was removed from service. He filed departmental appeal against the order dated 30.10.1986 before the Chairman, HUDA, which was considered by Personnel Committee of HUDA consisting of Chief Secretary to Government of Haryana, the Secretary, Town and Country Planning, Haryana and the Chief Administrator, HUDA, who vide order dated 30.08.1988 rejected the appeal. The appellant filed suit for setting aside the order dated 30.10.1986 on the following grounds:-

“1) The impugned order dated 30-8-1988 which was communicated by the defendant No.1 is liable to be quashed mainly on the ground that it was not a speaking order.

ii) That the personnel Committee who happened to consider the appeal of the plaintiff was to consist of Chief Secretary to Government of Haryana, the secretary, Town & Country Planning, Haryana and the Chief Administrator, HUDA who had finally passed the order of removal of the services of the plaintiff could not be a member of the Personnel Committee, but he had acted as a Judge of his own case and the appeal was ultimately dismissed.

iii) *That there were identical allegations against Sh.Jawahar Singh and he was charge-sheeted on the similar allegations and he was also found to be guilty by the Enquiry Officer, but he was awarded the penalty of stoppage of four annual grade increments whereas a discriminatory order was passed against the plaintiff for the removal of the services.*

iv) *That the disciplinary authority has not applied its judicious mind to the entire facts and circumstances of the case and there is no definite conclusion to hold the plaintiff guilty for the charges and the disciplinary authority instead of interpreting the findings of the Enquiry Officer in accordance with law has held that there appears to be sufficient reasons for presuming the accomplicity of Sh.Pamanand in this case.*

v) *That the disciplinary authority held that the plaintiff did not produce any document in defence against the charge No.2 & 3.*

vi) *That the plaintiff had repeatedly requested the authorities to make him available the relevant record for preparing the reply to the charges, but the relevant record was not shown to him and the plaintiff had also requested the Enquiry Officer to summon certain witnesses and produce the documents which were in the custody of the HUDA, but the Enquiry Officer did not entertain the request of the plaintiff and even after closing the case of the prosecution agency, no opportunity was given to the plaintiff to adduce his evidence in defence in oral or in writing.*

vii) *That the punishing authority had tried to prove that the office record was in the custody of the plaintiff and that while in custody of the said record, created/got created the false record/evidence and that destroyed/got destroyed the office record i.e. office copy of Land Acquisition Collector Faridabad's letter No.LAC-72/NTA/2120-22 dated 31-3-1975 and the reference in this connection was also received from the District Judge, Gurgaon, whereas there was a statement on the enquiry file made by Satpal, Clerk who had specifically stated that the record has been taken by Rajinder Prasad, Patwari and*

the said case for which the plaintiff has been charge-sheeted was not concerned with the branch of the plaintiff.

viii) That the enquiry proceedings have given complete disregard to the provisions of Punjab Civil services (Punishment and Appeal) Rules, 1952 and the penalties can be imposed for the good and sufficient reasons and in the impugned order, it has not disclosed any reasons for passing the said order vide which the plaintiff was ordered to be removed from his services.

ix) That the enquiry proceedings in this case were initiated on the basis of an incident which was taken place about ten years back and this amounts to denying the reasonable opportunity to defending the plaintiff and, moreover, the impugned order was arbitrary and discriminatory and was also violative of article 14 of the Constitution and is void, ab-initio and prayed for quashing and setting aside the same with all consequential relief.”

4. The suit filed by the appellant was dismissed by Sub Judge Ist Class, Chandigarh vide judgment and decree dated 24.08.1994. The appellant filed appeal against the same which was dismissed by District Judge, Chandigarh, vide judgment and decree dated 18.07.2000. Hence, the present regular second appeal.

5. Learned counsel for the appellant contends that both the Courts did not consider the very fact that the punishment awarded to the appellant is harsh. He further contends that identical allegations were levelled against Jawahar Singh and he was charge-sheeted on the similar allegations and found guilty by the Enquiry Officer but was awarded the penalty of stoppage of four annual grade increments whereas the appellant was removed from service for the same charges. He further contends that the removal order was passed by the Chief Administrator, HUDA and while deciding the appeal of the appellant, the same Officer i.e. Chief Administrator, HUDA could not be

member of Personnel Committee, since a person cannot be a judge of his own case. He, therefore, prays that the present appeal be allowed and the civil suit filed by the appellant be decreed in his favour.

6. Learned counsel for the appellant relies upon decision of Hon'ble the Supreme Court in **Amar Nath Chowdhury Versus Braithwaite and Co. Ltd. 2002 AIR (Supreme Court) 678** and **Hari Singh Versus State of Punjab and another 2004 (3) SLR 778**.

7. *Per contra*, learned counsel for respondents contends that the allegations against the appellant were serious because of which he was rightly removed from service.

8. I have heard learned counsel for the parties and perused the whole record of this case.

9. Admittedly, the departmental appeal is decided by the Personnel Committee of whom the Chief Administrator, HUDA, who passed the order of removal, was one of the members and order dated 30.08.1988 passed in appeal against order dated 30.10.1986 is one line order stating that "your appeal has been considered and rejected by the Personnel Committee in its meeting held on 30.08.1988".

10. Coming to the judgments referred to by learned counsel for appellant. This Court in **Hari Singh's case (supra)** held that while deciding an appeal recording of reasons is safeguard to observe rule of law and if the order is cryptic and devoid of reasons, this Court cannot effectively exercise the power of judicial review and in the absence of such rigorous compliance order is violative of rules of natural justice and thus illegal.

11. Hon'ble the Supreme Court in **Amar Nath Chowdhury's case (supra)** held that "no person should become the judge of his own cause" is

based on the principles of natural justice and “the justice should not only done it must seem to be done.”

12. Undisputed facts in the present appeal are that the appellant stepped into the witness box and admitted that enquiry was conducted after affording him reasonable opportunity to defend his case and he was afforded an opportunity of personal hearing as well. During his cross-examination, he admitted that he was afforded reasonable opportunity of being personally heard and was allowed to inspect the record as well. Admittedly, in the enquiry, he was held guilty for all the charges except for Charge No.1 he was partially held guilty. A perusal of record further shows that in the enquiry which was held after giving proper opportunity of being heard to the appellant, the appellant is held guilty by the Enquiry Officer.

13. Relevant portion of the judgment and decree dated 24.08.1994 passed by Sub Judge Ist Class, Chandigarh is reproduced as under:

“21. In view of the above arguments and after perusing the pleadings as well as oral and documentary evidence adduced on behalf of both the parties, I am of the opinion that the plaintiff was working as a Kanungo in the Haryana Urban Development Authority and during the course of his service, it was noticed that the plaintiff had obtained Rs.500/- as illegal gratification from Ram Piara s/o Dula Ram for getting the later's time barred claim sent to the court of District Judge, Gurgaon and he had created the false record/evidence to give the application and appearance of having been received well in time and, afterwards, the plaintiff Sh. Parmanand has destroyed/got destroyed the office record i.e. office copy of Land Acquisition Collector Faridabad's letter No.LAC-72/NTA/2120-22 dated 31-3-1975 and the reference in this connection received from the District Judge, Gurgaon and to ascertain the above allegations, memorandum Ex P-1 was served upon the plaintiff and the plaintiff filed reply vide dated 6.10.76 and afterwards a statement of allegations was also served upon the

plaintiff which was issued by the Director Urban Estate Haryana, Chandigarh and the plaintiff has submitted his reply to the allegations vide Ex P-3. Afterwards, the department has directed to hold a regular enquiry and Smt. Ved Kumari, H.C.S., Joint Director, Town & Country Planning department Haryana, Chandigarh was appointed the Enquiry Officer and after conducting the regular enquiry, the Enquiry Officer has submitted her report Ex P-4 which is also equal to Ex P-12. A careful perusal of Ex P-5 and Ex P-7 reveals that both the copies of memorandum were issued and served upon the plaintiff and the plaintiff was afforded the opportunity for filing the reply to both memorandum and a careful perusal of Ex P-8 further reveals that the opportunity was afforded to the plaintiff for appearing before the Chief Administrator, HUDA on 18-2-86 at 11.30 A.M. to appear in person and to express his views and after considering the detail enquiry report which was submitted by the Enquiry Officer wherein the plaintiff was held partially guilty for charge No.1 whereas the charges No.2 & 3 were fully established against the plaintiff (hereinafter referred as Sh.Parmanand). A final order Ex P-9 was passed by the Chief Administrator, HUDA wherein the plaintiff Sh.Parmanand who was working as Kanungo was ordered to be removed from the service and after passing the said order, the appeal was filed by the plaintiff vide Ex P-10 to the Chairman, HUDA, Panchkula and thereafter, the said appeal was considered by the Personnel Committee consisting of three members i.e. the Chief secretary, Government of Haryana, The Secretary, Town & Country Planning Haryana, Chandigarh and The Chief Administrator, HUDA vide Ex P-11, the appeal was dismissed and with the above discussion and observations, this fact is fully established that the regular enquiry was conducted and the charges which were levelled against the plaintiff were fully proved as is evidently clear by the enquiry report Ex P-4 and P-12 and it has also been admitted by the plaintiff during the cross-examination while he was examined as PW-1 that he was afforded the reasonable opportunity of being personally heard and he was also allowed to inspect the record and with the foregoing, I do not concur with the arguments advanced by the

learned counsel for the plaintiff that the plaintiff was not afforded the opportunity of being personally heard whereas this fact has been fully admitted by the plaintiff himself while he stepped into the witness box as PW-1 and as regard to the other arguments advanced by the learned counsel for the plaintiff that the impugned order Ex P-9 & Ex P-11 were not the speaking orders whereas a careful perusal of the order Ex P-9 vide which the plaintiff Sh.Parmanand who was working as a Kanungo was ordered to be removed from the service itself is a speaking order and it incorporates all the facts and evidence and circumstances which necessitated for passing the said orders. The other arguments advanced by the learned counsel for the plaintiff that the Chief Administrator, HUDA had acted as a Judge in his own case was also not tenable because the personnel Committee consisted of three members which were of the rank of the Chief Secretary to the Government of Haryana as well as the secretary to the Department of Town & Country Planning, Haryana and it cannot be held that the Chief Administrator, Haryana Urban Development Authority had acted as a Judge in his own case because the other two members had also considered and perused the appeal and finally which was dismissed by them. However, the authority which has been referred by the learned counsel for the plaintiff is not applicable to the facts and circumstances of the present case and with these observations, this issue is accordingly decided in favour of the defendants and against the plaintiff.”

14. A perusal of above referred to judgment shows that there is no infirmity in the same except for justifying that the Chief Administrator, who passed the order of removal, can be a member of personnel committee deciding the appeal against the same order of removal by the Chief Administrator itself, in view of law laid down by Hon'ble the Supreme Court in above referred to judgment.

15. Learned counsel for the appellant contends that the appellant had expired on 18.12.2012, therefore, this Court would not be in a position to

remand the matter to the Appellate Authority (consisting of members other than the Chief Administrator, HUDA, who passed the order of removal of the appellant from service) to decide the appeal afresh.

16. The appeal is accordingly dismissed being devoid of merits with no order as to costs.

17. Decree sheet be drawn.

18. Pending application(s) if any also stand disposed of.

20th May, 2025

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**(SUDEEPTI SHARMA)
JUDGE**

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