



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

203

CWP-12479-2011 (O&M)

Date of decision: 28.10.2025

BALWINDER SINGH

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Sumeet Mahajan, Sr. Advocate with
Mr. Shrey Sachdeva, Advocate and
Ms. Radhika, Advocate
for the petitioner.

Mr. Ravi Pratap Singh, DAG, Haryana.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of orders dated 15.03.2010 (Annexure P-10), 12.03.2008 (Annexure P-9) and 26.04.2007 (Annexure P-7), whereby he was dismissed from service and higher authorities dismissed his appeal/revision.

2. The petitioner joined Haryana Police Force as Constable on 31.01.1981. He was promoted as Head Constable on 15.09.1989. He was promoted as ASI on 23.12.2002. The respondent alleging misconduct initiated departmental proceedings against him. He was served charge-sheet. An inquiry officer was appointed to conduct inquiry. The inquiry officer found that there is no evidence of accepting money, however, declared the petitioner guilty of



misconduct. He concluded that there is ample evidence that despite being on a responsible post, the delinquent did not register a case and only initiated preventive action. The Disciplinary Authority issued show cause notice proposing punishment of dismissal from service. The said authority supplied copy of inquiry report along with show cause notice. The petitioner did not file response to show cause notice and Disciplinary Authority vide order dated 26.04.2007 dismissed him from service. He unsuccessfully preferred appeal as well as revision before higher authorities.

3. Learned Senior counsel for the petitioner submits that petitioner was not supplied copy of inquiry report. He even did not receive alleged show cause notice. As per alleged show cause notice, copy of inquiry report was supplied along with show cause notice. In the show cause notice, the Disciplinary Authority categorically averred that he agrees with the report of inquiry officer. It means the Disciplinary Authority had already applied its mind and formed an opinion that petitioner should be dismissed from service. The action of authorities was in gross violation of principles of natural justice. A five-Judge Bench of Hon'ble Supreme Court in ***Managing Director, ECIL, Hyderabad and others vs. B. Karunakar and others (1993) 4 SCC 727*** has clearly held that the Disciplinary Authority is duty bound to supply copy of inquiry report before passing any adverse order.

4. Per contra, learned State counsel submits that Disciplinary Authority attempted to supply copy of inquiry report, however, petitioner changed his address and his father refused to accept copy of inquiry report. The show cause notice along with inquiry report was affixed at conspicuous place of the house.



5. On being asked, learned State counsel confirmed that report of inquiry officer was not supplied independently whereas it was supplied along with show cause notice.

6. I have heard the arguments and perused the record.

7. From the perusal of record, it is evident that inquiry officer was different from Disciplinary Authority. The inquiry officer did not find involvement of money, however, declared petitioner guilty of alleged misconduct. Allegation against the petitioner was that he did not register FIR and initiated preventive action. The inquiry officer submitted his report to Disciplinary Authority which did not supply copy of inquiry report to petitioner, however, enclosed with show cause notice wherein punishment of dismissal from service was proposed. Hon'ble Supreme Court in **B.Karunakar (supra)** has clearly held that Disciplinary Authority is duty bound to supply copy of inquiry report to delinquent so that he may make his representation to the Disciplinary Authority.

The relevant extracts of the judgment read as:

"29. Hence it has to be held that when the Inquiry Officer is not the disciplinary authority, the delinquent employee has right to receive a copy of the inquiry Officer's report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employee with regard to the charges levelled against him. That right is a part of the employee's right to defend himself against the charges levelled against him. A denial of the Inquiry Officer's report before the disciplinary authority takes its decision on the charges is a denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of natural justice.

30. Hence the incidental questions raised above may be answered as follows:

(i) Since the denial of the report of the Inquiry Officer is a denial of



reasonable opportunity and a breach of the principles of natural justice, it follows that the statutory rules, if any, which deny the report to the employee are against the principles of natural justice and, therefore, invalid. The delinquent employee will, therefore, be entitled to a copy of the report even if the statutory rules do not permit the furnishing of the report or are silent on the subject.

(ii) The relevant portion of Article 311(2) of the Constitution is as follows:

"(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an enquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges."

Thus the Article makes it obligatory to hold an inquiry before the employee is dismissed or removed or reduced in rank. The Article, however, cannot be construed to mean that it prevents or prohibits the inquiry when punishment other than that of dismissal, removal or reduction in rank is awarded. The procedure to be followed in awarding other punishments is laid down in the service rules governing the employee. What is further, Article 311(2) applies only to members of the civil services of the Union or an all India service or a civil service of a State or to the holders of the civil posts under the Union or a State. In the matter of all punishments both Government servants and others are governed by their service rules. Whenever, therefore, the service rules contemplate an inquiry before a punishment is awarded, and when the Inquiry Officer is not the disciplinary authority the delinquent employee will have the right to receive the Inquiry Officer's report notwithstanding the nature of the punishment.

(iii) Since it is the right of the employee to, have the report to defend himself effectively, and he would not know in advance whether the report is in his favour or against him, it will not be proper to construe his failure to ask for the report, as the waiver of his right. Whether, therefore, the employee asks for the, report or not, the report has to be furnished to him.

(iv) In the view that we have taken, viz., that the right to make



representation to the disciplinary authority against the findings recorded in the inquiry report is an integral part of the opportunity of defence against the charges and is a breach of principles of natural justice to deny the said right, it is only appropriate that the law laid down in Mohd. Ramzan Khan's case (AIR 1991 SC471) (supra) should apply to employees in all establishments whether Government or non-Government, public or private. This will be the case whether there are rules governing the disciplinary proceeding or not and whether they expressly prohibit the furnishing of the copy of the report or are silent on the subject. Whatever the nature of punishment, further, whenever the rules require an inquiry to be held, for inflicting the punishment in question, the delinquent employee should have the benefit of the report of the Inquiry Officer before the disciplinary authority records its findings on the charges levelled against him. Hence question (iv) is answered accordingly.

(v) The next question to be answered is what is the effect on the order of punishment when the report of the Inquiry Officer is not furnished to the employee and what relief should be granted to him in such cases. The answer to this question has to be relative to the punishment awarded. When the employee is dismissed or removed from service and the inquiry is set aside because the report is not furnished to him, in some cases the non-furnishing of the report may have prejudiced him gravely while in other cases it may have made no difference to the ultimate punishment awarded to him. Hence to direct reinstatement of the employee with back-wages in all cases is to reduce the rules of justice to a mechanical ritual. The theory of reasonable opportunity and the principles of natural justice have been evolved to uphold the rule of law and to assist the individual to vindicate his just rights. They are not incantations to be invoked nor rites to be performed on all and sundry occasions. Whether in fact, prejudice has been caused to the employee or not on account of the denial to him of the report, has to be considered on the facts and circumstances of each case. Where, therefore, even after the furnishing of the report, no different consequence would have followed, it would be a perversion of justice to permit the employee to resume duty and to get all the consequential benefits. It amounts to rewarding the dishonest and the guilty and thus to stretching the concept of justice to illogical and exasperating limits. It amounts to a



"unnatural expansion of natural justice" which in itself is antithetical to justice."

8. In view of law laid down by Hon'ble Supreme Court, the Disciplinary Authority was duty bound to supply copy of inquiry report and grant opportunity to petitioner to put forth his response. It is apt to notice here that disciplinary authority was not bound to issue show cause notice in view of 42nd constitution amendment made in proviso to Article 311(2) of Constitution of India. As per amended proviso to Article 311(2), Disciplinary Authority is not required to issue show cause notice prior to imposing punishment of dismissal from service or removal from service or reduction in rank. The Disciplinary Authority was not duty bound to issue show cause notice, however, was bound to supply inquiry report. The Disciplinary Authority failed to supply inquiry report and seek response of petitioner, thus, there was violation of law laid down by Hon'ble Supreme Court in ***B.Karunakar (supra)*** on the part of respondents.

9. The petitioner was implicated in FIR No.149 dated 25.03.2007 under Sections 409/420/120-B IPC, 15/61/85 NDPS Act and 7/13/49/88 PC Act at Police Station, City Fatehabad. He was sentenced to rigorous imprisonment of 10 years by trial Court. He has been acquitted vide judgment dated 22.05.2023 passed by this Court.

10. The petitioner has already attained age of superannuation. He was dismissed from service in 2007. In such circumstances, there would be compliance of principles of natural justice as well as mandate of law laid down by Hon'ble Supreme Court in ***B.Karunakar (supra)*** if matter is remanded back to Disciplinary Authority to pass fresh order after granting opportunity to petitioner to file response to inquiry report which as on day stands supplied to the petitioner.



11. The Disciplinary Authority while passing fresh order shall consider judgment dated 22.05.2023 passed by this Court in **CRA-S-879-SB-2009** as well as Rule 16.3 of Punjab Police Rules, 1934 (as applicable to State of Haryana).
12. The petitioner at the first instance will appear before SP, Fatehabad on 20.11.2025 and thereafter as directed by him. The Disciplinary Authority would be at liberty to continue departmental proceedings, if any, pending on the date of passing dismissal order. The disciplinary authority shall also take care of mandate of rule 16.24(vii) of Punjab Police Rules.
13. **Disposed of** in above terms.
14. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

28.10.2025
P.Bhatt

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