



2. Learned counsel for the petitioner *inter alia* contends that the petitioner joined as Junior Engineer on 11.04.1983 under the Department of Local Government and he has rendered unblemished service for more than 35 years with full dedication. The petitioner was transferred to the office of respondent No.5 on 12.12.2011 as Assistant Municipal Engineer. He refers to Annexure P-1 i.e. the complaint dated 05.09.2011 made by the residents of ward No.10 falling under the Municipal Council, Sirhind-respondent No.5.



The residents of the area have raised an objection with regard to construction of a paying guest house in violation of the rules and regulations. Respondent No.2 issued a charge sheet on 18.03.2016 (Annexure P-2) on the basis of the actuated the complaint dated 05.09.2011 (Annexure P-1) filed by the residents of the society. The petitioner sent a detailed reply on 22.11.2017 and duly informed that the petitioner was appointed as Assistant Municipal Engineer on 12.12.2011, whereas, the site plan of the property in question was already sanctioned on 12.10.2011 before joining the petitioner, as such, the petitioner cannot be held liable for any disciplinary proceedings on the basis of complaint made by the residents of the locality on 07.09.2011. Further, the allegation contained in the charge sheet cannot be fastened upon the petitioner as the scope of duty of the petitioner as Assistant Municipal Engineer is neither concerning passing of the sanction plans and further any inspection with regard to the construction is under the sole domain of the building inspector.

3. Learned counsel for the respondents could not controvert the fact that the petitioner has only joined as Assistant Municipal Engineer at Municipal Council, Sirhind on 12.12.2011, whereas, the disputed site plan was sanctioned on 12.10.2011. However, learned counsel for respondents No.1 to 3 vehemently submits that the scope of judicial review in disciplinary proceedings is very narrow. It is not a case that the impugned punishment order was passed in violation of statutory and rules of principles of natural justice. A detailed inquiry was conducted and petitioner was provided full opportunity including personal hearing and petitioner did not make any effort to inspect the instructions of the site in question and he allowed the building to be constructed against the building by-laws.

4. I have heard learned counsel for the parties and perused the record



with their able assistance.

5. Further, the petitioner retired on 30.11.2016. The very foundation of the charges against the petitioner is sanctioning of the disputed building plan stands demolished by the reply filed by respondent No.5. Perusal of para No.2 of the reply dated 19.09.2022 filed on behalf of respondent No.5 clearly establishes that the petitioner joined the Municipal Council, Sirhind on 12.12.2011. The disputed site plan was presented in the Municipal Council on 05.09.2011 and it was sanctioned on 12.10.2011 which bears the signatures of Shri Harmail Singh Jandu, Sectional Officer, Swaraj Inderpal Singh, Assistant Municipal Engineer and Shri Bhushan Singh Rana, Executive Officer, as such, the petitioner cannot be held liable for the lapses committed prior to his joining. The impugned order of punishment dated 07.08.2019 vide which a 10% cut imposed upon the pension of the petitioner for three years is against the principle of prudence.

6 It is settled law that this Court may only exercise its powers under Article 226 of the Constitution of India when the findings recorded in lieu of a disciplinary action, are arbitrary, tainted with procedural illegality or manifest any prejudice. This Court cannot re-appreciate the matter on merits and substitute the conclusion drawn by the concerned authority with its own. Tritely, a High Court cannot sit in appeal with respect to the decision arrived in pursuance of disciplinary proceedings. As such, this Court must confine itself to ensuring that the findings rendered are justified by the material available on record, that the proceedings were conducted in compliance with the prescribed procedure as well as the principles of natural justice and that the penalty imposed is proportional to the misconduct.



7. A two-Judge Bench of the Hon'ble Supreme Court in *Union of India vs. P. Gunasekaran, (2015) 2 SCC 610*, speaking through Justice Kurian Joseph, made the following observations in this regard:

*“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. **In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence.** The High Court can only see whether:*

- (a) the enquiry is held by a competent authority;*
- (b) the enquiry is held according to the procedure prescribed in that behalf;*
- (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*
- (i) the finding of fact is based on no evidence.*

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

- (i) reappreciate the evidence;*
- (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;*
- (iii) go into the adequacy of the evidence;*
- (iv) go into the reliability of the evidence;*
- (v) interfere, if there be some legal evidence on which findings can be based.*
- (vi) correct the error of fact however grave it may appear to be;*
- (vii) go into the proportionality of punishment unless it shocks its conscience.” (emphasis added)*



Reliance in this regard may also be made to the judgments rendered in *B.C. Chaturvedi vs. Union of India*, (1995) 6 SCC 749 and *Indian Oil Corpn. Ltd. vs. Ashok Kumar Arora*, (1997) 3 SCC 72.

8. Furthermore, a two-Judge Bench of the Hon'ble Supreme Court in *S.R. Tewari vs. Union of India*, (2013) 6 SCC 602, speaking through Justice B.S Chauhan, made the following observations in this regard:

“ 29. In *Union of India v. R.K. Sharma* [(2001) 9 SCC 592 : 2002 SCC (Cri) 767 : AIR 2001 SC 3053] , this Court explained the observations made in *Ranjit Thakur* [*Ranjit Thakur v. Union of India*, (1987) 4 SCC 611 : 1988 SCC (L&S) 1 : (1987) 5 ATC 113 : AIR 1987 SC 2386] observing that if the charge was ridiculous, the punishment was harsh or strikingly disproportionate it would warrant interference. However, the said observations in *Ranjit Thakur* [*Ranjit Thakur v. Union of India*, (1987) 4 SCC 611 : 1988 SCC (L&S) 1 : (1987) 5 ATC 113 : AIR 1987 SC 2386] are not to be taken to mean that a court can, while exercising the power of judicial review, interfere with the punishment merely because it considers the punishment to be disproportionate. **It was held that only in extreme cases, which on their face, show perversity or irrationality, there could be judicial review and courts should not interfere merely on compassionate grounds.**

30. The findings of fact recorded by a court can be held to be perverse if the findings have been arrived at by **ignoring or excluding relevant material or by taking into consideration irrelevant/inadmissible material. The finding may also be said to be perverse if it is “against the weight of evidence”, or if the finding so outrageously defies logic as to suffer from the vice of irrationality. If a decision is arrived at on the basis of no evidence or thoroughly unreliable evidence and no reasonable person would act upon it, the order would be perverse.** But if there is some evidence on record which is acceptable and which could be relied upon, the conclusions would not be treated as perverse and the findings would not be interfered with. (Vide *Rajinder Kumar Kindra v. Delhi Admn.* [(1984) 4 SCC 635 : 1985 SCC (L&S) 131 : AIR 1984 SC 1805] , *Kuldeep Singh v. Commr. of Police* [(1999) 2 SCC 10 : 1999 SCC (L&S) 429 : AIR 1999 SC 677] , *Gamini Bala Koteswara Rao v. State of A.P.* [(2009) 10 SCC 636 : (2010) 1 SCC (Cri) 372 : AIR 2010 SC 589] and *Babu v. State of Kerala* [(2010) 9 SCC 189 : (2010) 3 SCC (Cri) 1179] .)

31. **Hence, where there is evidence of malpractice, gross irregularity or illegality, interference is permissible.**” (emphasis added)



9. Consequently, this Court is constrained to hold that the impugned conclusion, on its very face, wholly arbitrary and capricious, such that no reasonable person could have arrived at it. A finding of fact that is unsupported by any evidence and is so devoid of logic as to suffer from the vice of irrationality cannot be sustained in the eyes of law.

10. In view of the discussion above, the present writ petition is allowed and impugned order dated 07.08.2019 (Annexure P-5) along with all consequential orders, are hereby set aside. The consequential benefits be paid to the petitioner within three months from the date of receipt of certified copy of this order.

(HARPREET SINGH BRAR)
JUDGE

01.09.2025
Neha

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