



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

259-1

CWP-16412-2017 (O&M)

Date of decision: 16.05.2025

Balbir Singh Saini

...Petitioner

VERSUS

State of Haryana

...Respondent

259-2

CWP-25701-2012 (O&M)

Date of decision: 16.05.2025

Balbir Singh Saini

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Ajay Kumar Gupta, Advocate and
Mr. Hritik Gupta, Advocate for the petitioner(s).

Mr. Rahul Dev, Addl. AG Haryana.

VINOD S. BHARDWAJ, J. (Oral)

1. Both these writ petitions, arising from the same cause of action, are being decided by a common judgment. While CWP-25701-2012 had been filed, raising a challenge to the charge-sheet that had been served upon the petitioner, CWP-16412-2017 had been filed against the imposition of punishment consequent upon disciplinary proceedings alongwith challenge to the orders of promotion of juniors ignoring the claim of the petitioner for being promoted.



2. The petitioner was posted as a Superintending Engineer in the Irrigation Department when a chargesheet dated 11.09.2010 was served upon him, pertaining to some works that had been executed in the year 2007 while being posted as Executive Engineer, Siwani Water Services Division, Bhiwani for the work of earth work and lining of Gosaiwala Minor from RD 6500-9300 alongwith ancillary works. The charges levelled in the aforesaid charge-sheet are extracted as under:-

“1. That he called the tenders for the work of earth work and lining of Gosaiwala Minor from RD 6500-9300 with other works and the tenders were opened on 2.3.2007. Nineteen tenders were sold for the said work but only three tenders were received. He failed to take appropriate action regarding pooling in tenders and also failed to cancel the same inspite of the fact that he admitted the same in his statement.

2. That he failed to call the societies/contractors for negotiation. Even the second lowest agency was also not called for negotiation of rates which was required under the rules.

3. That he recommended the rates at his own without any logic i.e. @ 8% above Departmental Through Rate, whereas after negotiation the lowest tendering agency quoted the rates of 20% above Departmental Through Rate. After refusal of the lowest agencies for doing the work at the rates of 8.02% above Departmental Through Rate, he allotted the above said work to the non tendering agency at the rates of 20%



above Departmental Through Rate, without giving proper opportunity/ intimation to other eligible tendering agencies. He failed to cancel the tenders and further failed to call the fresh tenders as per Government instructions as contained in rule 13.18.1(f) of Haryana Public Works Department Code. In this way he also violated rule 3(i) (ii) and (iii) of the Government Employees (Conduct) Rules 1966.”

3. The petitioner filed his reply to the aforesaid charge-sheet, however, notwithstanding the response given by the petitioner, an inquiry report was submitted against him, purportedly proving the charges and culminating into imposing of penalty of 5% cut on the pension for a period of one year vide order dated 22.05.2017. The same reads thus:

“Sh. Balbir Singh Saini submitted his defence reply to the said chargesheet on 11.2.2011 and denied all the charges. After taking the comments of the department, the competent authority did not find his reply convincing and Sh. R.P. Bhasin, Distt & Session Judge (Retd.) was appointed as Inquiry Officer to conduct regular department enquiry against him. The Inquiry Officer has proved charges No. 1 & 3 against Sh. Balbir Singh, Superintending Engineer in his report.

In terms of sub rule (6) of Rule-7 of the Haryana Civil Services (P&A) Rules, 1987 amended vide Govt. notification dated 6th July, 2007, a copy of inquiry report was sent to him for making a representation, if any vide No. 6/51/2010-5IE,



dated 17.10.2012. The delinquent Officer vide his application dated 19.11.2012 requested to extend time upto 15.1.2013 for representation on medical ground. But, after completion of aforementioned time, the officer did not bother to submit any representation neither he made any request for personal hearing.

Whereas, after taking all the facts and circumstances into consideration i.e. the report of Inquiry officer and comments of the department and available record, it is concluded that the charged officer recommended to allot the work to a party which even did not participate in the tendering process, in completely arbitrary manner, which is an act of grave misconduct and charge No. 1 & 3 are proved against the delinquent Officer. Keeping in view the relative severity of charges and since the officer has retired from Government service, taking a lenient view, the competent authority has decided that a penalty of 5% cut in pension for a period of one year may be imposed upon Sh. Balbir Singh Saini, Superintending Engineer (now retd.) to meet the ends of justice.

This issues with the concurrence of the HPSC accorded vide its letter No. Dis.4/2017/2270, dated 18.5.2017.”

4. Learned counsel appearing on behalf of the petitioner contends that the respondent-authorities initiated the entire proceedings only to deny the petitioner his right of consideration and entitlement to be promoted to



extend undue benefit of promotion to his subordinate. He contends that the petitioner had submitted his detailed reply to the charge-sheet wherein it was pointed out that the work order issued to Sh. Surender Contractor (defendant No.4 in the Civil Suit), was a subject matter of challenge in Civil Suit No.193 RBT of 2007 instituted on 19.07.2007/14.06.2008 for permanent injunction to the effect that the State of Haryana as well as the authorities of the Yamuna Water Services Circle, Bhiwani be restrained from allotting the aforesaid work to the said Contractor viz. Sh. Surender Contractor and from forfeiting the earnest money of the plaintiff therein, i.e. M/s Goyal Construction Company. A mandatory injunction was also sought for the issuance of directions to the official respondents to allot the work to the plaintiff for its execution. As per the written statement filed by the official respondents, it was specifically submitted that the tender for the work was invited vide letter dated 20.02.2007 and had been opened on 02.03.2007. The plaintiff, M/s Goyal Construction Co., did not deposit the performance security of Rs. 22,400/-, being a preliminary requirement before the work was to be allotted. A notice was accordingly served upon plaintiff-M/s Goyal Construction Co. on 04.06.2007, but even thereafter, the performance security was not deposited within the stipulated period of 15 days. The aforesaid work being of utmost importance in light of the complaints made by the villagers to the Minister of State for Forest and Tourism, Haryana and keeping in view the demand of public in general, the matter was referred to the Superintending Engineer, Yamuna Water Services Circle, Bhiwani i.e. the higher authority of the petitioner for obtaining sanction of the competent



authority viz. the Executive Engineer, Siwani Water Services Division, Bhiwani on 25.06.2007 to get the work done from any willing agency as the validity period of work to be done i.e. 90 days had already expired. It was also stated by the respondent-department that the tender rates as quoted by the plaintiff-M/s Goyal Construction Co. were found to be on the higher side by the Superintending Engineer himself, being the competent authority to decide the rates as the cost on the basis of tendered rates worked out to Rs. 5,29,830/- as against the estimate of Rs.4,47,566/-. Despite the same, the petitioner, being the Executive Engineer, had issued a letter of acceptance in favour of M/s Goyal Construction Co. on 04.06.2007, requesting the deposit of performance security but to no avail. Faced with the directions issued by the Superintending Engineer, the petitioner, being the competent authority, obtained sanction vide letter dated 05.07.2007 for allotment of work to Sh. Surender Contractor after following the due process of law and the due performance security was also deposited by the latter. It was also the specifically pleaded case of the respondent-department that there was no breach or violation of any of the procedures prescribed by law and allotment had been made in favour of Sh. Surender Contractor after obtaining due sanction of the competent authority and that there was no collusion on the part of the petitioner and the Contractor. The work in question had been completed by the said allottee to the extent of 60% at that time and the rates approved by the petitioner herein were far below the rates tendered by the plaintiff-M/s Goyal Construction Co. It was also stated that the said stand of the respondent-department was accepted by the Civil Court after the parties



had led their respective evidence. The department examined its witnesses to corroborate the compliance of the procedure then in force, to justify its decision to get the work executed through Sh. Surender Contractor. The Civil Suit for permanent injunction was accordingly dismissed vide judgment and decree dated 04.03.2009. The said judgment and decree attained finality.

5. The petitioner thus raised the plea in his reply to the charge-sheet that the allegations are the same as were levelled by M/s Goyal Construction Co. while instituting the above-said Civil Suit for permanent injunction and against the allotment of the work in favour of Sh. Surender Contractor. He contends that the impugned charge-sheet was issued in the year 2010, notwithstanding that a judgment and decree had already been passed in favour of the respondent-department, dismissing the Civil Suit instituted by M/s Goyal Construction Co. on 04.03.2009, i.e. nearly one and a half years prior to the issuance of the charge-sheet. Notwithstanding that the findings of the Civil Court were binding on the departmental authorities and that the respondent-State had already taken a specific stand approving and validating the action taken by the petitioner and holding that the sanction from a superior authority had already been obtained before allotting the said repair works in favour of Sh. Surender Contractor, the charge-sheet, which runs contrary to the written statement already filed by the respondent-department before the Civil Court, could not have been issued as the same manifests an inherently contradictory allegations levelled by the respondent-department. He contends that the aforesaid exercise was undertaken by the



respondents solely to deny the benefit of promotion to the petitioner and to promote persons who were junior to him, superseding his entitlement.

6. Learned counsel appearing on behalf of the petitioner further contends that the respondent-department ignored the petitioner's claim for further promotion to the post of Chief Engineer when the order promoting 04 persons, including one Sh. Brijesh Kumar Sharma dated 14.12.2011 was passed. Condition No.4 of the said order of promotion specifically records that in the event the petitioner (who was senior and ignored for promotion on account of pending charge-sheet under Rule 7) is held eligible for promotion to the post of Chief Engineer specified for Mechanical or Electrical Cadre, then his junior Sh. Brijesh Kumar Sharma would be reverted to the post of Superintending Engineer without notice. The said Condition reads thus:-

“4. The promotion of Shri Brijesh Kumar Sharma is further subject to the condition that if it is found at a later stage that his senior Sh. B.S. Saini, Superintending Engineer (ignored for promotion on account of pending charge sheet under rule-7) would be eligible for promotion against the post of Chief Engineer specified for Mechanical or Electrical Cadre, he would be reverted to the post of Superintending Engineer without notice.”

7. He further contends that even in the following year, i.e. 2012, when the order of promotion of one Sh. Rakesh Chauhan was passed, a similar condition was incorporated, which needs no reiteration. It is submitted that both the promotions were already made subject to the



outcome of the disciplinary proceedings that had been initiated by the respondent-department under Rule 7.

8. It is vehemently argued by the counsel that notwithstanding the detailed reply submitted by the petitioner as well as the judgment and decree of the Civil Court, the Inquiry Officer submitted a report against the petitioner by holding that the tenders that had been opened on 02.03.2007 ought to have been cancelled and the action of the allotment of work in question to non-tendering agency namely Sh. Surender Contractor at DTR+8.02% of the rates was not justified. The course available with the petitioner was to call for fresh tenders after scrapping the initial process, which was not done. A copy of the said inquiry report was served upon the petitioner, whereupon he submitted a reply. The reply was filed pointing out specifically that no work was allotted to any willing agency at DTR+20% for earth work and masonry as alleged in the charge-sheet but was allotted @ overall average of DTR+8.02% after approval of the competent authority, viz. the Superintending Engineer. It was also pointed out that no extra expenditure was incurred by getting the work executed through any willing agency; rather, there was a net saving of Rs. 50,000/- as compared to the rates of L-1, i.e. M/s Goyal Construction Co. It was also mentioned that L-1 specifically gave in writing about his disinclination to execute the work at any rate less than DTR+20% which such rates were not approved by the competent authority. Even the lowest agency submitted in writing that they were not willing to execute the work below DTR+20% for both Earth work and *pucca* work. Hence, the steps for getting the work done through any



willing agency were initiated on the directions of the superior, i.e. the Superintending Engineer.

9. It was also specifically pointed out that Clause 13.18.1(f) of the Haryana Public Works Department Code, viz. the new PWD Code, had been implemented w.e.f. 01.11.2009 and hence, could not lay the foundation for the initiation of disciplinary proceedings in relation to the work that had already been completed in the year 2007. Thus, the very foundation of the framing of charge and initiation of departmental proceedings against the petitioner by relying upon the procedure as prescribed in the PWD Code of 2009 was grossly misconceived. It was also submitted by the petitioner that the finding recorded by the Inquiry Officer about the Contractor having cartelized the process of submission of tenders was not based on any evidence, as the said inquiry was conducted in the year 2011 with respect to a work that had been completed in the year 2007. It was specifically stated that at the relevant point in time, the Irrigation Manual of Orders was in force and the work was allowed by the Superintending Engineer under Chapter 4.2-4, page 164 and sub para 7, being within his competence. Thus, initiation of any action by the petitioner as the executing agency, having been posted as the Executive Engineer, stands merged and ratified by the higher authority, whereupon no liability can be fastened against the petitioner for the same. It was also averred that even under the old PWD Code of 2009, Chapter 1 on the duties of officers prescribes that the approving authority is fully responsible for all kinds of work approved by him. In the present case, had the provisions of the Code of 2009 been



interpreted and applied correctly, the liability, if any, would have been fully upon the approving authority, which was the Superintending Engineer and the proceedings thus could not have been initiated against the Executive Engineer, i.e. the petitioner. Ignoring the detailed reply to the inquiry report that had been furnished, the impugned order dated 22.05.2017 was passed, the operative part whereof has already been extracted.

10. He further contends that surprisingly, it has been recorded by the then Principal Secretary, Irrigation & Water Resources Department, that the officer (petitioner herein) did not bother to submit any representation or a request for personal hearing, whereas a detailed representation had already been submitted responding to each and every allegation and finding recorded, in detail. It is contended that a specific averment in this regard has been made by the petitioner in paragraph No.12 of the writ petition (supra) and in response thereto, the respondents have admitted averments. He also draws the attention of this Court to the averments contained in paragraph No.7 of CWP-16412-2017, wherein the petitioner has specifically pleaded the applicability of the Irrigation Manual of Orders as well as paragraph No.14 of the reply in CWP-16412-2017, where the respondents acknowledge that in the charge-sheet, the charge was wrongly applied. The specific averments and the response filed by the respondents is tabulated as under:-

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CWP-16412-2017	Reply
7. That it was in these peculiar	7. That the contents of para No.7 of



<i>circumstance that the work was got done from a willing party with the approval of competent authority and as permissible under the prevailing rules. Order 7 contained in Chapter 4.2-4.4 at page 164 of the Irrigation Manual of orders being relevant in the present context is reproduced as under:-</i> <i>"(7) having regard to any peculiar local conditions demanding urgency of action for any particular work, the Superintending Engineer may, at his discretion for reasons to be recorded by him, permit the issue of works order without recourse to calling for tenders."</i> <i>As such, the competent authority having exercised his discretion in the peculiar facts and circumstances due to refusal by the lowest agency to come forward for execution of the works at 8.02% above DTR, nothing wrong could be attributed to the petitioner in getting the works executed at 8.02% above DTR and that too with due direction and permission from Superintending Engineer, the competent authority under rules. Copy of relevant rules is enclosed as Annexure P-11.</i>	<i>the petition are admitted to the extent that the work was got done from a willing agency after approval from the competent authority on the already approved rates on the recommendation of the petitioner. The provisions of Sub para 7 of para 4 of chapter-IV of Irrigation manual is not relevant to this case, since the tenders for this work have been called.</i>
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12. That even though the petitioner had filed reply to the show cause notice but considering the facts and circumstances of this case and it is clearly written in the forwarding of show cause notice that Govt. agrees with the findings of enquiry report and thus, it was very likely that the respondents would proceed to impose severe punishment upon the petitioner once over again so that the petitioner does not get his due promotion to the post of Chief Engineer to which he is entitled under rules. Though in ordinary course the petitioner was required to effectively avail the alternate remedy available to him under law and wait for the decision of the competent authority on the enquiry report but as submitted in the said writ petition, there was no likelihood of the competent authority i.e. the government taking any view favouring the petitioner and, therefore, CWP No.25701 of 2012 was filed. This Hon'ble Court has been pleased to entertain the said writ petition during pendency of which the impugned orders dated 22.05.2017 have been passed and the petitioner seeks to challenge the said impugned orders. The petitioner further seeks to submit that this petition may be heard	12. The contents of para No.12 of the petition are admitted to the extent that agreeing with the findings of enquiry conducted by Vigilance wing of Irrigation Deptt, the Govt. decided to serve chargesheet upon the petitioner. The order dated 22.05.2017 imposing penalty of 5% cut in pension for a period of one year has been passed by taking a lenient view by the competent authority since the petitioner has retired. Rest of the para is denied and not admitted.
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<i>alongwith the said writ petition. A copy of Reply dated 14.12.2012 and the impugned order dated 22.05.2017 are attached as Annexures P-14 and P-15 respectively.</i>	
<i>14. That the main law points which arise for determination by this Hon'ble Court are: - (a) Whether intentional mentioning of incorrect figure of allotment of work at DTR+20% at which allegedly work is allotted to willing party whereas actual figure was DTR+8.02% and on this basis making out a false and frivolous charge is wrong, illegal, arbitrary, mala fide and amounts to gross violation of Article 14 of Constitution?</i>	<i>14. The contents of para No.14 of the petition are admitted to the extent that the petitioner was due to retire on 30-9-2013. The petitioner was denied promotion as he was found ineligible for it as per service rules and rest of the para is denied. (a) That the work has been allotted to any willing agency at the rate of DTR+8.02% which has inadvertently been mentioned as DTR+20% in the charge sheet at charge No.3. As such there is no violation of constitution by the competent authority.</i>

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11. Surprisingly, in response to para No.7, the respondents have admitted even in the instant writ petition that the work was got done by a willing agency after approval from the competent authority, a stand which demolishes the entire charge-sheet. The disciplinary authority, however, chose not to even look into the file as regards the availability of any representation (the existence whereof is admitted while responding to para No.12) and passed an order which is sans any of the parameters of a reasoned and speaking order. He thus prays that the entire exercise, having been undertaken by the respondents solely as a means to deprive the



petitioner of his rightful entitlement for promotion and propelled by a deep, pervasive intent to promote an undeserving junior at the cost of the right of the petitioner thus needs to be suitably compensated.

12. Responding to the above, learned State counsel, however, makes a vehement but feeble attempt to justify the action by the respondents by placing reliance on the violation of Rule 13.18.1(f) of the Haryana PWD Code and contends that the procedure as prescribed in law has been fully complied with. The petitioner was granted an opportunity to respond to the allegations that were levelled against him. He failed to establish his defence, whereupon an inquiry report proving the charge against the petitioner was submitted. The petitioner never asked for a personal hearing, whereupon the order imposing a penalty was passed. He contends that the powers of the High Court in the matters of disciplinary proceedings are limited and the High Court in exercise of its powers under Article 226 of the Constitution of India, cannot sit in re-appreciation of the evidence collected during the course of inquiry proceedings or the order imposing punishment. As the procedure as prescribed has been duly followed, there can be no re-appreciation of evidence.

13. Responding to the argument pertaining to reliance on the PWD Code and Clause 13.18.1(f) contained therein, learned counsel appearing on behalf of the petitioner contends that the said Code was made applicable w.e.f. 01.11.2009 and could not have been applied retrospectively with respect to the works that had been allotted and executed in the year 2007. Thus, the said fair response demolishes the very foundation of the argument



as well as the charge and renders it un-sustainable considering that the Irrigation Manual of Orders was in force as on the date when the work was allotted and the specific averment made by the petitioner in para No.7 of writ petition stands admitted by the respondent-department in the reply filed herein before this Court.

14. I have heard the learned counsel for the respective parties and have gone through the documents appended with the present writ petitions.

15. The undisputed facts which emerge from the narration as above establish that work of earth work and lining of Gosaiwala Minor from RD 6500-9300 with other works, was allotted by the petitioner as an employer being the Executive Engineer, Siwani Water Services Division, Bhiwani albeit on the directions and after approval of the competent authority viz. the Superintending Engineer, Yamuna Water Services Circle, Bhiwani. The said approval has been the hallmark of the department in defending its action in the Civil Suit instituted by the ousted contractor, i.e. M/s Goyal Construction Co., before the Civil Court, Bhiwani. The authorities led their evidence in support of the Executive Engineer and defended his action of getting the work executed through another willing agency viz. Sh. Surender Contractor by specifically placing reliance on the fact that there had been a violation and non-compliance of the terms and conditions of the tender documents by the plaintiff and that even the performance security had not been furnished despite an opportunity having been extended by the petitioner. The respondent-department had emphatically relied upon the failure of Sh. Bishan Sawroop-M/s Goyal Construction Co., in failing to take



appropriate and adequate steps, including compliance with the essential terms & conditions, as being the reasons for making an allotment in favour of another willing contractor, which such stand was accepted by the Civil Court in its judgment and decree dated 04.03.2009. The initiation of the departmental proceedings in the present case stem from the allotment of the same work in favour of Sh. Surender Contractor, alleging that there had been certain violations. The statement of allegation in the chargesheet is at loggerheads and in contrast with the written statement filed by the respondents before the Civil Court at the time of the institution of Civil Suit for permanent and mandatory injunction in the year 2007. I fail to understand how the respondent-authorities could have initiated a chargesheet by levelling allegations which such allegations countered their own stand in the proceedings before the Civil Court. Shockingly, the inquiry officer, notwithstanding the judgment and decree having been passed by the Civil Court, returned a finding contrary to the finding recorded by the Civil Court in its judgment and decree and has thus travelled beyond the scope of the judgment by arriving at a scathing inference that the judgment and decree of the Civil Court are wrong. The law does not authorize the inquiry officer to disagree with the findings recorded by the Civil Court, more-so when such findings have already become binding on them. Moreover, the inquiry officer miserably failed to consider the written statement that had already been filed by the respondent-department and took no note that once their said stand had already stood accepted by the Civil Court, it operated as an estoppel against the department to take any stand to the contrary.



Undeniably, the respondent-department has never raised any challenge to the said judgment and decree despite the initiation of the disciplinary proceedings or filed a review for setting aside the said order on any ground, including and not limited to that the written statement filed in the Civil Suit was incorrect and was in violation of the record. Contradictory stands as a means to inflict punishment or initiate disciplinary proceedings cannot be permitted at convenience. This Court under the given circumstances would have reasons to believe that the assertion made by the petitioner that the said charge-sheet had been issued solely to extend the benefit of promotion to the juniors, since the timing of the serving of the charge-sheet immediately precedes the order of promotion that had been passed in favour of Sh. Brijesh Kumar Sharma in the year 2011, is correct. Such acts are not unknown or unheard of in the bureaucratic circle where the eligible and qualified persons are attempted to be denied their rightful dues only for promoting those persons who have the protection of the people in the seat of power. However, it is only in these circumstances that the Courts are required to tilt the scales and lift the veil and to the motive which led to the initiation of such disciplinary proceedings. It would not be open to the respondent-authorities to contend and to argue that, notwithstanding the inherent mischief and contradiction in the conduct of the department being established, yet, a Writ Court would be precluded from interfering with the findings recorded by the inquiry officer.

16. In the present case, the stand of the petitioner herein was not just a plea of defence, but rather, it was a plea of the department that stood



validated through a Civil Court decree much prior to the initiation of the disciplinary proceedings and has been ignored without assigning any valid reason or a cause.

17. Further ministerial acts on the part of the respondents which reflect gross non-application of mind or might indicate a conceited effort by a concerted group to deny the petitioner of his rightful due further strengthens from a perusal of the order imposing punishment, where there was a specific reference that no representation had been filed by the petitioner herein. However, the respondents themselves acknowledged and admitted in the written statement filed before the Court that the representation against the inquiry report detailing all facts had been specifically submitted. Conveniently, the entire stand of the petitioner was ignored and a non-speaking and unreasoned order, in violation of the principles of natural justice, was passed.

18. While State counsel had been reminding the Court of its limitations in exercise of judicial review in departmental proceedings once the procedure is followed, this Court feels that dispensation of justice is not a mechanical process of checking 'tick boxes' and to rule that once all boxes are ticked, justice is served. It is a process where dispassionate judicial mind has to scan through the entire process of decision making and to ensure that it reflected fair play in action. A Court of law is not always a non-participating spectator but is more often an evaluator of the act and the intent.

19. It cannot be expected of a Constitutional Court to let procedure



gain prominence even if doing so is at the cost of substantive rights. While the violator devises new means to defeat rights of citizen, a Court cannot take refuge in shackles of procedure. In doing so, it would be acting contrary to its object of creation-restoring order and Rule of Law. It is in such hour of challenge that the mettle of an institution is tested and a duty befalls on the institution to restore the faith and compensate for the loss.

20. The violator cannot be given the pleasure of a sadist and confidence of victorious in a display of dishonesty and to claim his trophy.

21. While ordinarily this Court would have been inclined to recommend proceedings also against those who act as pawns and issue commands of initiation of disciplinary proceedings, to appease the few at the perils of the other, however, doing so would only delay justice to the litigant. This Court would however record its displeasure at such conduct of all who were involved in this process. The Chief Secretary is directed to convey this recorded displeasure as an advance reminder against future such misadventures.

22. While being cognizant of the limitations of a Writ Court in the exercise of its powers of judicial review, this Court cannot lose sight of the fact that the precautions in exercising such power, prescribed through judicial precedents, do not become a source of promotion of mischief and malice. The violators cannot be permitted to take a shield that a Writ Court would not be within its jurisdiction to interfere with the orders passed by them, even though the illegalities may be rampant, brazen and self-evident. Consequently, the writ petitions are **allowed**, the impugned order dated



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CWP-16412-2017 (O&M) and 01 connected case

23.05.2017 under challenge in CWP-16412-2017, charge-sheet dated 11.09.2010, inquiry report dated 11.09.2012 as well as the orders dated 14.12.2011 and 23.05.2012, which are under challenge in CWP-25701-2012, are hence set aside.

23. The respondents are further directed to promote the petitioner w.e.f. 14.12.2011, when his junior- Sh. Brijesh Kumar Sharma was promoted to the post of Chief Engineer. All further consequential future promotion shall also be extended w.e.f. the date they fell due. The benefits admissible to the petitioner shall be calculated notionally w.e.f. the respective date and be calculated upto the date of his superannuation.

24. Let the same be disbursed within a further period of 03 months of receipt of a certified copy of this order alongwith interest @6% per annum from the date of institution of CWP-25701-2012 till its final disbursement.

25. This Court also feels that the ends of justice may not be well served in case such brazen acts of misconduct on the part of respondent-State are ignored as any such sympathetic consideration and leniency would promote breach and violation of law, hence, this Court also deems it appropriate to impose an additional cost of Rs.1,00,000/- towards litigation expenses to be paid to the petitioner. State is at liberty to recover the financial liability towards interest & cost from the erring officials.

26. All pending civil misc. application(s), if any, stand disposed of.

(VINOD S. BHARDWAJ)
JUDGE

16.05.2025

Mangal Singh

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