



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

224

**CWP-24486-2016 (O&M)
Date of decision: 11.08.2025**

Daljeet Singh (now deceased) through LRs

....Petitioner

Versus

Punjab State Power Corporation Limited, Patiala and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashok Bhardwaj, Advocate
for the petitioner.

Mr. Bhupesh Dogra, Advocate
for the respondents – PSPCL.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of certiorari, for quashing the order dated 12.09.2016 (Annexure P-4), vide which an amount of Rs.8,11,736/-, have been ordered to be recovered from the petitioner and also 25% cut forever in pension has also been imposed upon the petitioner. Further prayer has been made to stay the operation of the order dated 12.09.2016 (Annexure P-4), during the pendency of the present petition.

2. Learned counsel for the petitioner, inter alia, contends that the punishment order dated 12.09.2016 (Annexure P-4) is legally unsustainable as it was not passed by the competent authority. He submits that the said order was passed by the Board of Directors, which



is the Appellate Authority. However, in terms of Regulation 4 of the Punjab State Electricity Board Technical Services Class-III Regulations, 1996, the competent authority to pass such an order, is either the General Manager or the Engineer-in-Chief. He further submits that the petitioner was not afforded any opportunity of personal hearing prior to the issuance of the punishment order. As such, the impugned order stands vitiated both on the ground of having been passed by an incompetent authority and due to non-compliance of the principles of natural justice. Lastly, he submits that the petitioner was also not given any opportunity to present his defence, during the course of the inquiry proceedings.

3. Learned counsel for the respondents, at the very outset, took preliminary objection with regard to maintainability of the present writ petition on the ground that the statutory appeal against the impugned order has not been filed by the petitioner. Further, the disciplinary action was initiated against five delinquent officials, however, on the asking of the petitioner, his inquiry was separated from the others and the same has been concluded as such. He further submits that the impugned order is sustainable in view of the fact that one of the delinquent official, who was facing the departmental proceedings along with the petitioner, was a Chief Engineer and as per Regulation 5, 22 and Appendix 'D' of Punjab State Electricity Board (now Punjab State Power Corporation Limited), the authority competent to impose penalty on Chief Engineer is Whole Time Members in erstwhile Punjab State



Electricity Board (now called Whole Time Directors in Punjab State Power Corporation Limited).

4. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

5. From the perusal of the record, it transpires that the impugned order dated 12.09.2016 has been conveyed by the Deputy Secretary, Technical-IV, Patiala. Although the decision was taken by Whole Time Directors in their 185th meeting held on 30.08.2016 and vide Agenda No.196, the punishment has been imposed. The manner in which the punishment has been imposed is not in consonance with the erstwhile Punjab State Electricity Board, Technical Services Class III Regulations, 1996 (in short ‘the Regulations of 1996’). Regulation 4 of the Regulations of 1996, provide that the appointing authority of the service are mentioned in Annexure A whereas Regulation 16 of the Regulations of 1996, provide for discipline, punishment and appeal. According to this Regulation, the appellate authority have been mentioned in Annexure A of the Regulations of 1996. The relevant contents of Annexure A of the Regulations of 1996, reads as follows:-

Annexure A

Referred in Regulation 4 and 16 (b) of the Regulations of 1996

Post of employee	Appointing authority	Nature of punishment	Competent punishing authority	Appellate authority
JE Civil	General manager/Engineer-in-Chief	Minor Punishment (1-4) Major	General manager/Engineer-in-Chief	Management member



	Chief Engineer under whome the official is posted	punishment 5. Withholding of increments of pay with cumulative effect or reduction to a lower stage in the time-scale of pay for a specified period, with further directions as to whether or not the employee will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect postponing the future increments of his pay.	Chief Engineer	
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6. The competent punishing authority in case of the petitioner, who was working as Junior Engineer Civil, would be General Manager/Engineer-in-Chief, however, the impugned order indicates that the Whole Time Directors have passed the punishment order, which is



not in consonance with Annexure A of the Regulations of 1996, reproduced hereinabove. The impugned order further reveals that the same is not based upon any reason requiring imposing major penalty. Further the impugned order does not satisfy the objective standards of reasons and justice and appears to be passed in a mechanical manner. Further the explanation of the respondent/Corporation is that initially the inquiry was initiated against five delinquent officials including the petitioner, out of which one of them was Chief Engineer and as such, the Whole Time Directors were competent to pass the order of punishment, however, learned counsel for the respondents fairly concedes that the disciplinary proceedings of the petitioner were separated from the others and a separate order has been passed qua him.

7. It is trite law that existence of an alternative remedy does not foreclose writ jurisdiction under Article 226 of the Constitution of India. A two Judge bench of the Hon'ble Supreme Court in **Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai (1998) 8 SCC 1** has reiterated that the exercise of writ jurisdiction is a matter of discretion and not a rule. Therefore, if the facts of the matter warrant it, the High Courts may invoke the same in spite of availability of a parallel remedy. Speaking through Justice S. Saghir Ahmed, the following was opined:

“18. Much water has since flown beneath the bridge, but there has been no corrosive effect on these decisions which, though old, continue to hold the field with the result that law as to the jurisdiction of the High Court in entertaining a writ petition under Article 226 of the Constitution, in spite of the alternative statutory remedies,



is not affected, specially in a case where the authority against whom the writ is filed is shown to have had no jurisdiction or had purported to usurp jurisdiction without any legal foundation.”

8. Furthermore, a two Judge bench of the Hon’ble Supreme Court in **Harbanslal Sahnia and another vs. Indian Oil Corporation Ltd. and others (2003) 2 SCC 107** has clarified that. Speaking through Justice R.C. Lahoti, the following was observed:

*“7. So far as the view taken by the High Court that the remedy by way of recourse to arbitration clause was available to the appellants and therefore the writ petition filed by the appellants was liable to be dismissed, suffice it to observe that **the rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion. In an appropriate case, in spite of availability of the alternative remedy, the High Court may still exercise its writ jurisdiction in at least three contingencies; (i) where the writ petition seeks enforcement of any of the Fundamental Rights; (ii) where there is failure of principles of natural justice or, (iii) where the orders or proceedings are wholly without jurisdiction or the vires of an Act and is challenged.** [See Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and others 1999(1) RCR (Civil) 220 : (1998) 8 SCC 11]. The present case attracts applicability of first two contingencies. Moreover, as noted, the petitioners' dealership, which is their bread and butter, came to be terminated for an irrelevant and non-existent cause. In such circumstances, we feel that the appellants should have been allowed relief by the High Court itself instead of driving them to the need of initiating arbitration proceedings.” (emphasis added)*

9. Additionally, after conducting an in-depth examination of the matter, speaking through Justice D.Y. Chandrachud, the following principles were enunciated by a two Judge bench of the Hon’ble Supreme Court in **M/s Radha Krishan Industries vs. State of Himachal Pradesh & Ors. (2021) 6 SCC 771:**



27. *The principles of law which emerge are that :*

(i) The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well;

(ii) The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person;

(iii) Exceptions to the rule of alternate remedy arise where

(a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution;

(b) there has been a violation of the principles of natural justice;

(c) the order or proceedings are wholly without jurisdiction; or

(d) the vires of a legislation is challenged;

(iv) An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law;

(v) When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion; and

(vi) In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.”

10. In view of the foregoing discussions and having regard to the fact that the impugned order dated 12.09.2016 (Annexure P-4) was passed by an authority not competent under the applicable Regulations



of 1996, and further noting the fact that the petitioner was not afforded an adequate opportunity of hearing or to present his defence during the inquiry proceedings, the impugned order stands vitiated for want of compliance with the principles of natural justice as well as statutory procedure.

11. Accordingly, the present writ petition is allowed. The punishment order dated 12.09.2016 (Annexure P-4) is hereby set aside. In light of the fact that the petitioner has passed away, during the pendency of the writ petition and his LR's were impleaded on 24.03.2022, it is made clear that in terms of the judgment rendered by the Hon'ble Supreme Court in *Basudeo Tiwary vs Sido Kanhu University, 1998(4) SCT 322* and this Court in CWP No.21107 of 2015, titled as *S.K. Gupta vs Sarva Haryana Gramin Bank and others*, decided on 17.01.2019, no further disciplinary proceedings shall be initiated and the retiral dues, if any, be released in favour of the LR's of the petitioner.

(HARPREET SINGH BRAR)
JUDGE

11.08.2025
yakub

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