



120

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-1726-2025 (O&M)

Date of Decision: 4th September, 2025

THE BRITISH INDIA CORPORATION LTD. AND ANOTHER

.....Appellant(s)

V/s.

PARBODH KUMAR SHARMA

.....Respondent(s)

CORAM: **HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA**
HON'BLE MR. JUSTICE ROHIT KAPOOR

Present Mr. Puneet Sharma, for the appellants.

ASHWANI KUMAR MISHRA, J. (Oral)

1. Writ Petition filed by the respondent has been allowed by the learned Single Bench on 19.02.2025, whereby, the order passed by the appellate authority dated 19.09.2018, dismissing the respondent from service, has been set aside. It is this order of the learned Single Bench dated 19.02.2025, which is impugned in this Appeal.

2. Learned Single Bench, for the purposes of allowing the Writ Petition, has taken note of the fact that the respondent had retired eight years prior to passing of the order of dismissal.

3. Facts, as would clearly be reflected from the records, reveal that the disciplinary inquiry was initiated against the respondent with service of a charge-sheet upon him on 18.11.2004. The respondent submitted reply to this charge-sheet on 17.12.2004. An enquiry was directed to be conducted pursuant to order dated 07.02.2008. The Inquiry Officer conducted the enquiry and submitted his report dated 19.08.2010, clearly holding that the charges against the respondent were not proved. The

said inquiry report of the Inquiry Officer has not been accepted by the Chairman-cum-Managing Director, who has exercised his authority under Rule 26 of the Employees Conduct (Discipline & Appeal) Rules, 1986 of the BIC Ltd. (hereinafter referred to the “the Rules of 1986”), and ordered a fresh enquiry. It is this fresh enquiry which has resulted in passing of the dismissal order against the respondent.

4. It is undisputed that the respondent had attained the age of superannuation on 30.10.2010.

5. Before proceeding further, it would be worth noticing that Rule 26 of the Rules of 1986 permits the disciplinary authority to take appropriate action on the report of the Inquiry Officer.

6. Rules 26 (1) and (2) of the Rules of 1986 are relevant for the present purposes and are reproduced as under:-

“26. ACTION ON THE INQUIRY REPORT

(1) The disciplinary authority, if it is not itself the Inquiring Authority may, for reasons to be recorded by it in writing, remit the case of the inquiring authority for fresh or further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 25 as far as may be.

(2) The Disciplinary Authority shall forward, if it disagree with the findings of the Inquiring Authority on any article of charge, record its reason for such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.”

7. The conjoint reading of Rule 26 (1) and 26 (2) of the Rules of 1986, would make it clear that the disciplinary authority, for disagreeing with the findings of the Enquiry Officer on any article of charge, is required

to record his reason for such disagreement and record his own findings on such charge.

8. In the facts of the present case, the Chairman-cum-Managing Director had passed an order holding the inquiry to be bad in law just two days prior to superannuation of the respondent. The reasons for not agreeing with the report of the Inquiry Officer, in the order dated 28.10.2020, are reproduced as under:-

“AND Whereas the said Shri D.S. Mishra, conducted the enquiry, has submitted his findings/ enquiry report on 19.08.2010. I have gone through the enquiry report along with the relevant documents submitted by him and observed that certain aspects which have not been considered during the enquiry. Moreover, I am also not satisfied by the way in which enquiry has been conducted.

Whereas, in the interest of principles of natural justice, it seems, therefore, necessary to get the enquiry conducted afresh.

NOW therefore, in exercise of the powers conferred under Rule-26 of Employees Conduct (Discipline & appeal) Rules, 1986 of BIC Ltd., a fresh enquiry is hereby ordered to be conducted against Shri P.K. Sharma. Though Shri Sharma will stand relieved on the last working day after attaining the age of superannuation but departmental disciplinary proceedings shall continue.”

9. Law with regard to the course to be followed in such circumstances has otherwise been dealt with by the Hon'ble Supreme Court in the case of **Punjab National Bank and Others** Vs. **Kunj Bihari Misra**, 1996 (7) SCC 84 in which it is held as under:-

“The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation

7(2). As a result thereof whenever the disciplinary authority disagrees with the inquiry authority on any article of charge then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the inquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favorable conclusion of the inquiry officer. The principles of natural justice, as we have already observed, require the authority, which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer.

The aforesaid conclusion, which we have arrived at, is also in consonance with the underlying principle enunciated by this Court in the case of Institute of Chartered Accountants (supra). While agreeing with the decision in Ram Kishan's case (supra), we are of the opinion that the contrary view expressed in S.S. Koshal and M.C. Saxena's cases (supra) do not lay down the correct law.”

10. The Hon’ble Supreme Court has recognized the right in an employee, once he is exonerated of the charges made against him in the Inquiry report. The right of the disciplinary authority to disagree with such findings of the Inquiry Officer is hedged with the requirement of indicating reasons for such disagreement and affording an opportunity to the employee to be confronted with such reasons.

11. In the order of the disciplinary authority dated 28.10.2010, no reasons for disagreement are found to exist. Merely saying that he is not satisfied with the report of the Inquiry Officer would not suffice. Once that

be the case, we find that the initiation of *de novo* enquiry pursuant to order dated 28.10.2010, culminating in passing of the order of dismissal, cannot have the approval of the law. Though on different a ground, but we find no reason to interfere with the impugned judgment of the learned Single Bench in this case. Accordingly, the Appeal is **dismissed**.

12. All pending applications, if any, in this case are disposed of accordingly.

[ASHWANI KUMAR MISHRA]
JUDGE

[ROHIT KAPOOR]
JUDGE

September 4, 2025
Ess Kay

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>