

CWP-1321-2007 and connected matters

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

102+207

1. CWP-1321-2007 (O&M)
Date of Decision: February 20, 2026

Suresh Kumar
.....Petitioner

VERSUS

The Punjab Police Housing Corporation Limited and others
..Respondents

2. CWP-11905-2024(O&M)

Suresh Kumar
.....Petitioner

VERSUS

The Punjab Police Housing Corporation Limited and others
..Respondents

3. COCP-282-2007 (O&M)

Suresh Kumar
.....Petitioner

VERSUS

S.S. Virk and another
..Respondents

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CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Kamal Sehgal, Sr. Advocate with Mr. Charanji Lal & Mr. Ravinder Pankaj with Mr. Anurag Mor, Advocates for the petitioner in all cases.

Mr. Varun Katyal and Mr. Satyam Sharma, Advocate for the respondent.

HARPREET SINGH BRAR, J. (Oral)

CM-2506-CWP-2026 in CWP-1321-2007

The present application has been filed under Section 151 of CPC for placing on record the noting sheet as Annexure P-29 sought under the RTI Act.

In view of the grounds mentioned in the application, the same is allowed, Annexure P-29 is ordered to be taken on record, subject to all just exceptions.

Registry is directed to place the same at an appropriate place.

CM-2507-CWP-2026 in CWP-1321-2007

Allowed, as prayed for.

CM-10086-CWP-2007 in CWP-1321-2007

The present application has been filed under Section 151 of CPC for placing on record the affidavit of respondent No.3.

In view of the grounds mentioned in the application, the same is allowed, affidavit of respondent No.3 is ordered to be taken on record.

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Registry is directed to place the same at an appropriate place.

CM-1287-CWP-2007 in CWP-1321-2007

Allowed, as prayed for.

CM-1288-CWP-2007 in CWP-1321-2007

The present application has been filed under Section 151 CPC for staying the operation of order dated 25.09.2006 and 16.10.2006 passed by the disciplinary authority as well as the order dated 27.11.2006 passed by the appellate authority.

At this stage, learned counsel for the petitioner wishes to withdraw the present application.

Accordingly, the present application is dismissed as withdrawn.

CM-5350-CWP-2007 in CWP-1321-2007

The present application has been filed under Article 226(3) of the constitution of India for vacation of stay.

At this stage, learned counsel for the petitioner wishes to withdraw the present application.

Accordingly, the present application is dismissed as withdrawn.

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Main

1. This common judgment shall dispose of all the aforementioned petitions as they arise from the same factual matrix. However, for the sake of brevity, the facts are taken from CWP-1321-2007.

2. The present petition has been preferred under Articles 226/227 of the Constitution of India seeking issuance of an appropriate writ in the nature of *Certiorari*, *Mandamus* or *Prohibition* for quashing of impugned order of dismissal dated 25.09.2006 (Annexure P-25) passed by respondent No.1-Managing Director whereby the petitioner has been dismissed from service, order dated 16.10.2006 (Annexure P-26) also passed by respondent No.1- Managing Director whereby the petitioner was denied back wages and order dated 27.11.2006 (Annexure P-28) passed by respondent No.2-the Board of Directors whereby the appeal of the petitioner was dismissed.

FACTUAL BACKGROUND

3. The petitioner was appointed as a Clerk with the respondent-Corporation on 13.08.1989. Subsequently, in the year 1994, he was promoted to the post of Junior Assistant. On 27.08.2002 (Annexure P-2), a charge sheet was issued against the petitioner alleging that he had filed a complaint, against some officers in the name of one Sham Lal. The said

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complaint was received on 02.08.2002 and subsequently, on 05.08.2002, the handwriting sample of the petitioner was obtained from an unknown source by one Karnail Singh, Administrative Officer. On receipt of the charge sheet, on 28.08.2002 (Annexure P-3), he approached respondent No.1-Managing Director seeking a copy of the complaint filed against him. However, since he was not provided with the requisite documents, the petitioner submitted a short reply dated 03.09.2002 (Annexure P-5), while reserving his right to file a detailed reply. Subsequently, on 04.09.2002 (Annexure P-6), an Enquiry Officer was appointed without allowing the petitioner to file a detailed reply. The petitioner appeared before the Enquiry Officer on 06.09.2002 and requested to be supplied with the requisite documents to allow him to mount a defense. Ultimately, on 11.09.2002, the said documents were supplied to him; and on 18.09.2002 (Annexure P-9), the petitioner filed a detailed reply. The petitioner was issued show cause notice dated 21.11.2002 (Annexure P-15) along with a copy of the enquiry report (Annexure P-14).

3.1 Consequently, respondent No.1-Managing Director passed order dated 23.12.2002 (Annexure P-17), dismissing the petitioner from service. The petitioner filed the statutory appeal before respondent No.2-Board of Directors, which was dismissed in its meeting held on 14.02.2003. The same was also communicated to the petitioner on 07.03.2003. Thereafter, the petitioner approached this Court by filing CWP No.7070 of 2003 challenging the dismissal order as well as the appellate order on the

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ground that the punishing authority (respondent No.1-Managing Director) had also participated in the appellate proceedings initiated before respondent No.2-Board of Directors in his capacity as the Chairman of the Board. Vide order dated 08.05.2003 (Annexure P-20), the said writ petition was allowed and the appellate authority-Board of Directors was granted the liberty to decide the matter afresh. However, even after reconsideration, the appeal of the petitioner was dismissed by respondent No.2-Board of Directors in its meeting held on 30.05.2003 (Annexure P-21).

4. Aggrieved by the same, the petitioner filed CWP No.11000 of 2023 before this Court challenging order dated 21.11.2002 (Annexure P-15) and appellate order dated 30.05.2003 (Annexure P-21). During the course of the hearing, learned counsel for the respondents requested that the impugned orders therein be deemed to be withdrawn and sought permission to proceed afresh from the date of supply of enquiry report to the petitioner. Vide order dated 24.07.2006 (Annexure P-22), the request of the respondents was accepted and this Court directed the petitioner to be reinstated. It was also directed that any further proceedings be in consonance with paragraph 21 of ***Managing Director, ECIL Hyderabad vs. V. Karunakar (1993) 4 SCC 727.***

5. Thereafter, the petitioner submitted a detailed reply (Annexure P-24) to the enquiry report alleging infirmities. However, instead of issuing a show cause notice, as per the Punjab Civil Service Rules (PCSR), respondent No.1-Managing Director/Chairman passed impugned order dated 25.09.2006 (Annexure P-25), dismissing the petitioner from service. Further,

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the request of the petitioner for back wages was also rejected by respondent No.1-Managing Director vide impugned order dated 16.10.2006 (Annexure P-26) without assigning any reasons for such decision. Further still, the statutory appeal of the petitioner was rejected by respondent No.2-Board of Directors vide impugned order dated 27.11.2006 (Annexure P-28).

6. During the pendency of the present petition, the petitioner retired from service on 29.02.2024. However, the respondents did not release the gratuity and leave encashment of the petitioner, in spite of his representations, on the ground of pendency of CWP No.1321 of 2007, as mentioned in order dated 24.04.2024 (Annexure P-38 in CWP No.11905 of 2024).

CONTENTIONS

7. Learned counsel for the petitioner contends that the conduct of the respondents in the entirety of the disciplinary proceedings initiated against the petitioner indicates a clear bias and *mala fide*. Firstly, the petitioner has been wrongly accused of the alleged misconduct i.e. filing a complaint in the name of one Sham Lal. Pertinently, the said complaint was typed and the only handwritten element were the signatures affixed on it. Without anything to support the assumption of guilt of the petitioner, Karnail Singh, Administrative Officer, obtained his signature from some departmental record and personally took them for forensic analysis. The petitioner also produced a private handwriting expert who confirmed that the signatures on the complaint did not tally with the specimen handwriting of

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the petitioner. The opinion of the private expert was not considered as her analysis was based on a photocopy of the complaint and not the original document, though notably, the latter was not provided to the petitioner. Even so, the punishing authority had relied heavily on this government handwriting report to impose a major penalty of dismissal upon the petitioner.

8. Furthermore, the petitioner was only granted 07 days' time to file a reply as against the 20 days period provided by the applicable Service Rules. At every step of the process, the respondents have tried to sabotage the petitioner as it evident from the rushed inquiry and failure to supply relevant documents to him in a timely fashion. The bias is further highlighted by the fact that the request of the petitioner to change the Enquiry Officer was rejected without communicating the decision to him. Learned counsel further submits that the punishing authority in the present case was respondent No.1-Managing Director while the appellate authority is the Board of Directors. However, the Managing Director is also the Chairman of the Board. The apprehension of bias raised by the petitioner caused him to request the transfer his appeal to the Board of Directors of some other corporation. This grievance was not dealt with objectively and his request was rejected by stating that no provision of the Service Rules allows for such transfer. Moreover, in purported compliance with the order dated 24.07.2006 (Annexure P-22), the respondents withdrew the impugned orders in CWP No.11001 of 2003 but dismissed the petitioner from service

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vide impugned order dated 25.09.2006 (Annexure P-25), passed by respondent No.1-Managing Director, without so much as issuance of a show cause notice. This act of the respondents is in direct contravention of the procedure prescribed in *V. Karunakar (supra)*. The appeal arising from the said order was also rejected by the Board of Directors, headed by the Managing Director himself, though while donning his Chairman hat.

9. Learned counsel argues that assuming *arguendo* that the allegations were in fact true, the punishment imposed upon the petitioner is still grossly disproportionate. The petitioner had an unblemished service record of 14 years at the time of the alleged incident. During the pendency of the present petition, the operation of the impugned orders was stayed vide order dated 29.01.2007. On 10.09.2007, the writ petition was admitted and the stay was ordered to be continued. Since the year 2007, the petitioner has been working with the respondent-Corporation and till his retirement in the year 2014 i.e. in 17 years of this service period, no complaints were raised against him, rather, he was awarded commendation certificates for his exemplary work. In spite of such a service record, he has been dismissed from service for an unproven complaint processed by adopting an improper procedure. Significantly, the punishment of dismissal provided under Clause 6.2 of the Punjab Police Housing Corporation Employees Service Bye Laws (hereinafter 'the Bye Laws') can only be imposed for the reasons listed in Clause 6.5 and the alleged misconduct does not find a mention therein. A similarly situated employee namely Neelam Sethi was charged with

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obtaining loans from different banks on the basis of forged salary documents and Form No.16 (Income Tax). The charges were duly proved against her by following the proper procedure and yet she was only awarded a punishment of forfeiture of three increments with cumulative effect vide order dated 19.06.2002. Similarly, an employee named Shabir Alam was dismissed from service and later reinstated upon review. Thus, it is evident the petitioner has been caused a grave prejudice owing to the personal vendetta of the senior officials. Lastly, now that the petitioner has retired from service, his retiral benefits of gratuity and leave encashment have been withheld vide order dated 24.04.2024 (Annexure P-38) on the sole ground of pendency of CWP No.1321 of 2003.

10. *Per contra*, learned counsel for the respondents submits that the petitioner has failed to disclose that he has preferred an SLP bearing No.18267 of 2006 (Annexure R-1) before the Hon'ble Supreme Court against order dated 24.07.2006 (Annexure P-22) passed by this Court with regard to the payment of back wages, not against the entire order. Since passing of order dated 24.07.2006 (Annexure P-22), the petitioner was taken back into service and was placed under suspension. Till the passing of his order of dismissal, the petitioner was paid a subsistence amount totaling to a sum of Rs.9965/-. Moreover, the family of the petitioner also runs a departmental store. As such, the petitioner's argument that he is on the verge of starvation is refuted. Further still, the petitioner was given full opportunity to lead his defense including the opportunity to get the original

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complaint examined by the handwriting expert in the head office. However, the petitioner did not do so and therefore, cannot claim prejudice. Learned counsel further submits that the Courts cannot sit in appeal and re-appreciate the evidence led during inquiry, owing to the limited scope of judicial review with respect to disciplinary proceedings. Moreover, it is trite law that the imposition of punishment entirely depends on the discretion of the punishing authority. He further submits that the facts around the disciplinary action taken against Neelam Sethi and Shabir Alam are not comparable to the allegations leveled against the petitioner. A perusal of the relevant complaint (Annexure P-1) indicates that the petitioner has no respect for his superior officers and thus, proportional punishment has been imposed upon him. Additionally, respondent No.1-Managing Director did not take part in the appellate proceedings preferred before the Board of Directors, thus, the question of bias does not arise. As such, the present petition deserves to be dismissed.

OBSERVATIONS AND ANALYSIS

11. Having heard learned counsel for the parties and after perusing the record of the case, it appears that the petitioner is aggrieved by his dismissal from service of the respondent-Corporation, in furtherance of disciplinary proceedings initiated against him. It was alleged that the petitioner has submitted a typed complaint (Annexure P-1), under the name of Sham Lal, against some of his superior officials. At this juncture, it would be relevant to mention at that another employee of the respondent-

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Corporation namely Neelam Sethi was involved in much serious misconduct of availing loans by forging salary documents etc. However, she was only awarded a punishment of forfeiture of three increments with cumulative effect. On the other hand, the petitioner has been awarded a major penalty of dismissal from service for a misconduct that is *prima facie* less severe, comparatively.

12. Furthermore, the scope of judicial interference in disciplinary proceedings is limited as this Court cannot sit in appeal against the decision of the disciplinary authority by re-appreciating the matter on merits. 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;*

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(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 *S.R. Tewari vs. Union of India, (2013) 6 SCC 602, B.C. Chaturvedi vs. Union of India, (1995) 6 SCC 749* and *Indian Oil Corpn. Ltd. vs. Ashok Kumar Arora, (1997) 3 SCC 72*.

13. In summary, the judicial review in this sphere is confined to:

(a) **Compliance with principles of natural justice:** Adequate notice of charges, supply of relevant documents to the delinquent, a fair opportunity to be heard by fixing a date, time and place, and absence of bias. (See: *State of U.P. vs. Saroj Kumar Sinha 2010 INSC 77*).

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(b) **Procedural legality:** Adherence to the prescribed inquiry process and relevant statutory provisions. (See: *State of A.P. vs. S. Sree Rama Rao 1963 INSC 97*; *State of A.P. vs. Chitra Venkata Rao 1975 INSC 187*).

(c) **Findings based on evidence:** Interference is warranted if the conclusion is based on “no evidence” (See: *B.C. Chaturvedi (supra)*; *Allahabad Bank vs. Krishna Narayan Tewari 2017 INSC 10*).

(d) **Proportionality of penalty:** If the punishment shocks the conscience of the Court. (See: *P. Gunasekaran (supra)*).

(e) **Perversity or irrationality:** If the findings have been arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant/inadmissible material or if it is against the weight of evidence, or if the finding outrageously defies logic. (See: *S.R. Tewari (supra)*)

14. Additionally, the doctrine of proportionality mandates that the punishment imposed upon a delinquent employee must bear a just and reasonable nexus to the gravity of the misconduct established against him. The punishment imposed ought not to be excessive, unwarranted, or grossly disproportionate to the proven charges, otherwise, it would fall foul of the principles of fair play and reasonableness, thereby violating the fundamental right to equality enshrined under Article 14 of the Constitution of India. Reliance in this regard may be placed on the judgment rendered by the Hon’ble Supreme Court in *Rama Kant Misra vs. State of U.P. (1982) 3 SCC 346* and *Bhagat Ram vs. State of H.P 1983 (2) SCC 442*.

CONCLUSION

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15. As such, considering that the petitioner has been *prima facie* awarded disproportionate punishment for the alleged misconduct, this Court finds it appropriate to intervene. Accordingly, the following conclusions are arrived at:

(i) **CWP-1321-2007** is partially allowed. The order of dismissal dated 25.09.2006 (Annexure P-25) passed by respondent No.1-Managing Director, order dated 16.10.2006 (Annexure P-26) passed by respondent No.1- Managing Director and order dated 27.11.2006 (Annexure P-28) passed by respondent No.2-the Board of Directors are set aside to the extent that the punishment of dismissal imposed on the petitioner is modified to forfeiture of three increments with cumulative effect.

(ii) **CWP-11905-2024** is disposed of and the impugned order dated 24.04.2024 (Annexure P-38 therein) is set aside. The respondents are directed to release any pending retiral dues of the petitioner within 03 months of the date of receipt of a certified copy of this order. Any delay therein shall entitle the petitioner to interest at the rate of 6% p.a., calculable from a month after the date of his retirement till actual realisation.

(iii) **COC-282-2007** is disposed of with a strict warning against repetition of such behaviour to the respondents.

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16. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

February 20, 2026
P.C

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No