

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-17746-2000 (O&M)

Krishan Kumar Sood ... Petitioner

VS.

FCI ... Respondent

1.	Judgment reserved on	06.04.2026
2.	Judgment pronounced on	30.04.2026
3.	Judgment uploaded on	01.05.2026
4.	Whether operative or full judgment	Full
5.	Delay in pronouncement of full judgment and reasons, if any	NA

CORAM: HON’BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Arjun Sawhni, Advocate for
Mr. Manu K Bhandari, Advocate for the petitioner

Mr. HS Dhandi, Advocate for the respondent

Sandeep Moudgil, J.

Prayer

(1). The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India, *inter alia*, for issuing a writ of certiorari quashing the impugned order (Annexures P5 & P10) passed by respondent No.2 and 3 vide which recovery from pay of the petitioner has been ordered with stoppage of two increments.

Brief facts

(2). Petitioner joined as Messenger on 06.05.1969 and thereafter promoted as Assistant Grade-III (Depot) on 31.12.1983. He was served with a charge-sheet on 19.03.1998 for alleged shortage/short-loading of a rice consignment despatched from Nabha to Ranchi in 1984. He submitted his reply on 20.05.1998, after which the Disciplinary Authority, by order dated 5.11.1999/1.12.1999 (Annexure P-5), imposed recovery of Rs.29,496.45 in 36

instalments and stoppage of two increments without cumulative effect. Despite a statutory appeal filed thereagainst raising grounds of inordinate delay and denial of documents, the Appellate Authority vide order dated 19.12.2000 (Annexure P-10), dismissed the appeal.

(3). Hence the present writ petition.

(4). Heard learned counsel for the parties and the judgment was kept reserved on 06.04.2026.

(5). In the present case, it is not in dispute that the alleged misconduct pertains to the year 1984, whereas the charge-sheet was issued only on 19.03.1998, after an abnormal lapse of about 14 years. The only explanation forthcoming from the respondents is that the relevant record from the consignee was received belatedly, but no cogent material has been placed on record to show continuous, *bona fide* efforts on their part across this entire period or to satisfactorily account for the long gap between 1984 and 1995, and thereafter between 1995 and 1998. In view of the law laid down by the Supreme Court in **State of A.P. v. N. Radhakishan, (1998) 4 SCC 154**, unexplained and abnormal delay in conducting disciplinary proceedings renders prejudice to the delinquent “writ large” and can itself be a ground to quash the proceedings. The relevant extract of the said judgment read as under:-

“It is not possible to lay down any pre-determined principles applicable to all cases and in all situations where there is delay in concluding the disciplinary proceedings. Whether on that ground the disciplinary proceedings are to be terminated each case has to be examined on the facts and circumstances in that case. the essence of the matter is that the court has to take into consideration all relevant factors and to balance and weight them

to determine if it is in the interest of clean and honest administration that the disciplinary proceedings should be allowed to terminate after delay particularly when delay is abnormal and there is no explanation for the delay. The delinquent employee has a right that disciplinary proceedings against him are concluded expeditiously and he is not made to undergo mental agony and also monetary loss when these are unnecessarily prolonged without any fault on his part in delaying the proceedings. In considering whether delay has vitiated the disciplinary proceedings the Court has to consider the nature of charge, its complexity and on what account the delay has occurred. If the delay is unexplained prejudice to the delinquent employee is writ large on the face of it. It could also be seen as to how much disciplinary authority is serious in pursuing the charges against its employee. It is the basic principle of administrative justice that an officer entrusted with a particular job has to perform his duties honestly, efficiently and in accordance with the rules. If he deviates from this path he is to suffer a penalty prescribed. Normally, disciplinary proceedings should be allowed to take its course as per relevant rules but then delay defeats justice. Delay causes prejudice to the charged officer unless it can be shown that he is to or when there is proper explanation for the delay in conducting the disciplinary proceedings. Ultimately, the court is to balance these two diverse considerations."

(6). This Court is of the considered view that the delay in initiating action against the petitioner is inordinate, substantially unexplained and has caused serious prejudice to his defence.

(7). The petitioner has, contemporaneously, vide his letter dated 30.04.1998, complained that despite the recital in the memo, the relevant record and original complaint were not made available to him for inspection, yet the authorities proceeded to obtain his reply and impose punishment without

resolving this grievance. In response thereto, the respondent's bald denial that any request was made, unaccompanied by any discussion of this specific contention in the appellate order, persuades this Court to accept the petitioner's plea that he was not afforded effective access to the documents relied upon, thereby depriving him of a reasonable opportunity of defence and violating the principles of natural justice and the scheme of Regulation 60 of the FCI (Staff) Regulations. Moreover, before this Court also, the respondent has failed to produce any record or documents which strengthen formation of their opinion to come to the conclusion to issue charge-sheet and impose the punishment.

(8). This Court also finds that the appellate order dated 19.12.2000 (Annexure P-10) is *ex facie* non-speaking inasmuch as it neither adverted to nor adjudicated upon the foundational grounds raised by the petitioner regarding inordinate delay, denial of inspection/supply of documents and consequent prejudice. The requirement that an appellate authority in disciplinary matters must pass a reasoned order, reflecting due consideration of the grounds urged, is too well-settled to admit of doubt, and non-compliance therewith has been held to vitiate the appellate order and, in appropriate cases, the underlying punishment itself. In **Partap Singh v. State of Haryana, 2008(1) SCT 616 (P&H)**, the Punjab & Haryana High Court reiterated that where mandatory safeguards and fair-procedure requirements are ignored, the resultant action cannot be sustained, without the affected person having to establish prejudice in every minute particular.

(9). Tested on the touchstone of the above principles, this Court is satisfied that the disciplinary proceedings against the petitioner suffer from inordinate and substantially unexplained delay of about 14 years in issuance of

the charge-sheet, causing manifest prejudice. Besides, there is denial of effective opportunity by non-supply/inspection of material documents. That apart, there is sheer non-application of mind to the core grounds of challenge by the disciplinary as well as the appellate authorities.

(10). In view of the above discussion, this writ petition is allowed and the impugned punishment order dated 5.11.1999/1.12.1999 (Annexure P-5) as well as the appellate order dated 19.12.2000 (Annexure P-10) are, therefore, held to be unsustainable in law and are hereby quashed. All consequential actions, including recovery of Rs.29,496.45 and stoppage of two increments, shall stand set aside and any amount recovered from the petitioner in pursuance thereof shall be refunded to him within a period of two months from the date of receipt of a certified copy of this judgment. The petitioner shall also be granted all such service benefits found entitled to in pursuance to setting aside of the impugned orders.

(11). Pending applications, if any stand disposed of.

30.04.2026
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned? :
2. Whether reportable? :

Yes/No
Yes/No