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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9612-2000
DECIDED ON: 20.02.2026

R.L. MAHAJAN

....PETITIONER(S)

VERSUS

UNION OF INDIA AND ORS

....RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Hitesh Malik, Advocate
for the petitioner(s).

Dr. Malvika Singh, DAG Haryana.

SANDEEP MOUDGIL, J (ORAL)

In compliance with the order dated 09.01.2026, the petitioner has deposited the cost with the Punjab and haryana High Court Bar Clerk's Association. The said receipt dated 20.02.2026 is taken on record.

Prayer

1. The present petition under Article 226 of the Constitution of India has been filed seeking issuance of an appropriate writ in the nature of certiorari for setting aside the impugned punishment order and the consequential order whereby the review petition was not decided, as well as for a direction to the respondents to refund the amount of Rs. 47,196/- allegedly recovered from the petitioner, along with any other relief deemed fit in the facts and circumstances of the case.

Brief Facts

2. The petitioner is a retired Sub Divisional Officer of the Irrigation Department, Government of Haryana who initially joined service as an Overseer and was later promoted to Junior Engineer. During his tenure as Junior Engineer, he supervised the construction of Tangri Superpassage on the SYL Canal between 1977 and 1979. After completion of the work, the contractor invoked arbitration, and the arbitrator awarded a sum of Rs. 3,20,265/- in favour of the contractor. The department challenged the award before the civil court alleging irregularities, including fictitious measurements, but the Trial Court dismissed the objections and made the award rule of the court. The appeal and subsequent revision were also dismissed.

3. Subsequently, disciplinary proceedings were initiated against the petitioner on allegations of making fictitious and ante-dated entries in the Measurement Book, allegedly causing excess payment to the contractor. The petitioner denied the charges and sought a regular enquiry.

4. After a prolonged delay, the competent authority imposed a minor penalty of stoppage of one increment without future effect and ordered recovery of Rs. 47,196/- from him without conducting a regular enquiry as contemplated under the relevant rules. The petitioner submitted a representation seeking review of the punishment order; however, the same was rejected without detailed consideration. The petitioner retired from service thereafter.

5. Aggrieved by the punishment order and the rejection of his review petition, the petitioner has invoked the writ jurisdiction of this Court seeking quashing of the impugned orders and refund of the recovered amount with consequential benefits.

Contentions**On behalf of petitioner**

6. Learned counsel for the petitioner contends that the impugned punishment order is illegal, arbitrary and liable to be set aside as it has been passed in violation of the applicable service rules and principles of natural justice. It is argued that once a charge-sheet under the relevant major penalty provision was issued, the respondents were bound to hold a regular departmental enquiry and could not convert the proceedings into one for minor penalty without recalling the original charge-sheet. It is further submitted that no enquiry was conducted despite the petitioner's request, and the punishment order is a non-speaking order reflecting complete non-application of mind. The counsel emphasizes that the civil court had already disbelieved the allegations regarding fictitious measurements while upholding the arbitration award, and yet the petitioner was singled out for disciplinary action.

7. It is also contended that the review petition filed by the petitioner was disposed of mechanically without proper consideration and without consultation with the Public Service Commission, rendering the action arbitrary and a colourable exercise of power.

On behalf of respondents

8. Per contra, learned counsel for the respondents submits that the petitioner, while functioning as Junior Engineer, made fictitious and ante-dated entries in the Measurement Book, resulting in excess payment to the contractor and financial loss to the State exchequer. It is argued that the petitioner was duly served with a charge-sheet, afforded an opportunity to submit his reply, and that his explanation was carefully examined by the competent authority. Upon

consideration of the material on record, only a minor penalty was imposed, which is proportionate to the misconduct established.

9. The respondents maintain that the disciplinary authority acted within its jurisdiction under the applicable service rules, that principles of natural justice were complied with, and that no procedural illegality or perversity warranting interference under Article 226 of the Constitution of India is made out. Hence, dismissal of the writ petition is prayed for.

Analysis

9. Upon hearing learned counsel for the parties and perusing the record of the case, the controversy in the present writ petition lies in a narrow compass.

The core issue which arises for determination is:

Whether, after issuance of a charge-sheet under Rule 7 of the Punjab Civil Services (Punishment and Appeal) Rules for a major penalty, the disciplinary authority could impose a minor penalty without recalling the charge-sheet, holding the prescribed enquiry, or recording reasons reflecting due consideration of the petitioner's defence?

10. The undisputed facts are that the petitioner joined the Irrigation Department on 31.01.1956, served as Overseer, Sectional Officer, and Junior Engineer, and was posted on the Tangri Superpassage project from 10.01.1977 to 31.12.1979 under the supervision of senior officers. Subsequently, the contractor invoked arbitration and an award was passed in favour of the contractor. The State challenged the award before the civil court by raising, inter alia, allegations regarding fictitious measurements recorded in the Measurement Book. The trial court, however, rejected the objections and made the award a rule of the court while observing that the acts of the Junior Engineer had been duly owned and recommended by superior officers up to the rank of Superintending Engineer. The

appeal preferred by the State was dismissed and the revision petition before this Court also failed.

11. Despite this, the petitioner was served with a charge-sheet under Rule 7 of Punjab Civil Services (Punishment and Appeal) Rules, 1952 (hereafter referred to as “Rule 7”) on 20.07.1985 for a major penalty, to which he duly submitted a detailed reply on 31.10.1986 requesting an enquiry, but no enquiry was conducted. After nearly nine years, the disciplinary authority imposed a minor penalty of stoppage of one increment and recovery of Rs.47,196/- on 19.07.1995.

12. Upon careful examination of the record, it is evident that the petitioner was subjected to disciplinary proceedings in respect of alleged irregularities in the execution of Tangri Superpassage works, even though the civil court and appellate authorities had already disbelieved allegations of wrongdoing against him in relation to the arbitration award. The disciplinary proceedings were initiated under the provisions of the Punjab Civil Services (Punishment and Appeal) Rules, 1987 (in short as “1987 Rules”), but the impugned punishment order was imposed without conducting a proper enquiry as mandated under Rule 7 of the earlier and current rules. The petitioner had filed a detailed reply denying all charges and had sought a formal enquiry, yet the authorities proceeded to impose recovery and a minor punishment of stoppage of increment without affording an opportunity for a fair hearing.

Bird's eye of the Governing Rules

13. It is necessary to examine the existing statutory framework governing the field. A perusal of the scheme relating to enquiries under Rule 7 shows that a detailed and structured procedure has been laid down. Sub-rule (1) of Rule 7 stipulates that no order imposing a major penalty can be passed against an employee unless he is first afforded a reasonable opportunity to show cause

against the proposed action. Sub-rule (2) further mandates that the basis of the proposed action must be formulated into specific and definite charges, which are to be communicated in writing to the employee along with a statement of allegations. The employee must then be called upon to submit his defence or explanation, if any. In the event that such explanation is found unsatisfactory, a formal enquiry is required to be conducted, wherein evidence is led in respect of the charges that are not admitted. During this enquiry, the employee is entitled to cross-examine the witnesses produced against him, as well as to adduce evidence in his own defence and examine witnesses on his behalf.

14. Thus, upon a careful consideration of this elaborate procedural framework, it becomes evident that a chargesheeted employee is afforded a meaningful opportunity at the very threshold to submit his explanation in response to the chargesheet and demonstrate why no action is warranted against him. It is only in the event that such explanation does not find favour with the disciplinary authority that the process proceeds to a formal enquiry, in which the employee is entitled to fully participate in accordance with the prescribed rules.

15. Thereafter, should the enquiry culminate in a finding of guilt, a copy of the Enquiry Officer's report is required to be furnished to the employee. At this stage, if the disciplinary authority proposes to act upon such findings and impose a penalty, the employee is again granted a further and distinct opportunity to make his representation. This includes not only contesting the correctness of the findings of guilt on one or more charges on the basis of the evidence on record, but also advancing submissions as to why such findings ought not to be sustained, and, in any event, why the proposed punishment should not be inflicted upon him.

16. In contrast, where the chargesheet is issued under Rule 8 for the imposition of a minor penalty, the procedural safeguards available to the employee

are considerably limited. Upon receipt of the chargesheet, the employee is afforded a single opportunity to submit his explanation or representation, wherein he must not only assert that the charges are unfounded and that he ought not to be held guilty, but also address the question of punishment and contend why a particular penalty should not be imposed. In such a situation, the employee is effectively required to anticipate the possibility of an adverse finding and preemptively respond to the issue of punishment, as no further opportunity for written representation is ordinarily contemplated. While a personal hearing may, in some cases, be extended, it cannot be regarded as an adequate substitute for a comprehensive written representation.

17. However, where proceedings are initiated under Rule 7 for the imposition of a major penalty, the employee is not placed under such a constraint at the initial stage. He is not required to proceed on the assumption of guilt while responding to the chargesheet and is entitled to await the outcome of the enquiry, including the findings of the Enquiry Officer, before making further submissions. It is at that subsequent stage that he can effectively challenge the findings and address the question of penalty. Therefore, if a chargesheet is issued under Rule 7 but, without completing the enquiry contemplated therein, the disciplinary authority proceeds to impose a minor penalty after considering the employee's explanation, it would result in a clear deprivation of the employee's right to make a further and meaningful representation. Such a course would inevitably cause prejudice to the employee and undermine the procedural safeguards embedded in Rule 7.

18. If an employee is clearly put on notice that the proceedings are under Rule 8, he structures his defence accordingly, conscious that he has but a solitary opportunity to place, in one composite representation, both his denial of guilt and

his resistance to the nature and quantum of the proposed penalty including adverse consequences such as recovery. The procedural expectation is thus crystallised at the outset.

19. However, where the authority invokes Rule 7 and sets in motion the more rigorous machinery of a full-fledged enquiry, the employee is entitled to proceed on the footing that the safeguards embedded therein will be honoured in their entirety. Upon due compliance with that procedure, it is undoubtedly open to the Disciplinary Authority to impose such punishment, major or minor as the circumstances may warrant. Yet, to truncate this process midstream, abandon the enquiry after eliciting an initial explanation, and thereafter visit the employee with a minor penalty by resort to Rule 8, is to unsettle legitimate procedural expectations and inflict palpable prejudice.

20. The opportunity contemplated under Rule 8 is meaningful only when the employee is forewarned that such a limited procedure will govern the field, enabling him to marshal his entire defence in one decisive effort. Denied that forewarning, and having been drawn instead into the framework of Rule 7, the employee is deprived of a real and effective chance to present his case in its fullness. Such a shifting of procedural ground, to his detriment, strikes at the root of fairness and cannot be countenanced.

21. This principle has been consistently recognized by this Court. In ***RSA No. 2457 of 1983, State of Punjab v. Chodhri Manphul Singh, decided on 14.05.1985***, it was held that a charge-sheet issued for major penalty proceedings cannot automatically be treated as proceedings for minor penalty. Relevant extract is as under:

5. I have heard the learned counsel for the parties and also gone through the pleadings and the evidence on record. In the plaint, the plaintiff

specifically pleaded in paras 5 and 6 that the so-called enquiry was kept concealed and was carried out stealthily at the back of the plaintiff because he was afforded no opportunity to cross-examine the witnesses listed in the charge-sheet inasmuch as none of the witnesses was presented in the presence of the plaintiff. Moreover, no intimation as to time, date and place was given where the intending witnesses were required to be examined. The plaintiff appeared in the witness-box as PW 1 and stated on oath that no opportunity was afforded to him. It is quite strange that no evidence was led in rebuttal on behalf of the State of Punjab. The charge-sheet (Ex. P7) dated January, 21st 1977 was issued under rule 8 the Rules which relates to major penalty. It is the common case of the parties that an enquiry was contemplated and conducted under sub-rule (3) to rule (23) of rule 8. It may be that in order to inflict minor punishment no enquiry as such may be conducted or is necessary to be once, after issuing the charge-sheet under rule 8, the enquiry is held then minor punishment may be imposed as contemplated in clause (3) of rule 9 if the punishing authority so chooses at the time of awarding the punishment instead of the major punishment. But at the same time once the proceeding has been initiated under rule 8, then for inflicting a minor punishment, the procedure as required under rule 8 has to be followed for awarding a minor punishment under rule 9 (3)." In the present case, even this has not been done fully as found by the courts below. In any case, no evidence was led in rebuttal on behalf of the State of Punjab to the evidence of the plaintiff in this behalf. In this view of the matter, the appeal fails and is dismissed with no order as to costs. However, the State of Punjab will be at liberty to take any fresh action against the plaintiff, if so advised, in accordance with Rule 10 of the Rules.

22. Similarly, in ***RSA No. 2779 of 1988, Hukam Singh v. State of Haryana, decided on 16.07.1996***, this Court held that if the authority, upon consideration of the reply, forms an opinion that only a minor penalty is warranted, the proper course is to recall the charge-sheet and proceed afresh under the rule governing minor penalties.

23. In ***"Dr. K.G. Tiwari v. State of Haryana 2002 (2) SCT 915"***, while discussing the importance of the safeguard envisioned in the procedure under Rule 7, the Full Bench of this Court held that,

"24. In a case where a chargesheet is issued under Rule 7 for the imposition of a major penalty, if the disciplinary authority, after receiving the reply to the chargesheet, finds that there is no material against the chargesheeted

employee, and therefore, after holding of a regular enquiry, it will not be in a position to punish the chargesheeted employee, but still, for its own reasons wants to impose some punishment on him, then the disciplinary authority will choose to adopt the methodology of dropping the procedure contemplated under Rule 7, and simply state that the explanation of the chargesheeted employee has been considered, and impose a minor punishment. This is not the object of having two different sets of procedures in the form of Rule 7 and Rule 8. The object of prescribing these rules for holding disciplinary proceedings is to protect the chargesheeted employee from arbitrary and capricious exercise of power by disciplinary authority and from unjust and illegal punishments. These Rules are intended to safeguard the rights of such chargesheeted employee and to comply with the principles of natural justice.

25. Therefore, in interpreting such beneficial provisions contained in these rules, the courts have to accept the interpretation which will advance the object of the rules rather than to defeat it, and also interpret in a manner which will protect the rights of the chargesheeted employees against arbitrary and capricious exercise of power by the disciplinary authority.

*28. **We hold** that once the chargesheet is issued under Rule 7 of the Rules 1987 for the imposition of a major penalty, which envisages holding of a regular departmental enquiry, the disciplinary authority cannot by merely examining the reply to the chargesheet, inflict even a minor punishment without holding a complete departmental enquiry. ”*

24. In the present case, the petitioner was served with a charge-sheet dated 20.07.1985 under Rule 7 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952. The petitioner submitted a detailed reply on 31.10.1986 denying the allegations and seeking an enquiry. However, no enquiry was ever conducted. Instead, after a lapse of nearly nine years, the disciplinary authority passed the impugned order dated 19.07.1995 imposing the penalty of stoppage of one increment without future effect along with recovery of Rs.47,196/-.

25. Moreover, the respondents themselves admit in the written statement that the proceedings were “converted” into minor penalty proceedings after considering the petitioner’s reply. Such conversion is not contemplated under the statutory scheme. Once a charge-sheet under Rule 7 had been issued, the

respondents were required either to hold the enquiry prescribed under the rule or to withdraw the charge-sheet and initiate fresh proceedings under the appropriate provision. Neither course was adopted. The principle of natural justice requires that any disciplinary action, even for minor penalties, must be preceded by proper consideration of the employee's representation and reasons for the action taken must be recorded.

26. The object and intention behind these beneficial provisions is to ensure fairness, transparency, and protection of the employee against arbitrary exercise of disciplinary power. By prescribing separate procedures for major and minor penalties, the rules aim to give the employee a clear understanding of the case against him and adequate opportunity to defend himself. The intention is to uphold the principles of natural justice, prevent misuse of authority, and ensure that no punishment is imposed without following a procedure that is just, reasonable, and suited to the seriousness of the charges.

27. Otherwise also, the authorities failed to consider the favourable comments of the concerned Chief Engineer and the review petition submitted by the petitioner, and did not consult the Haryana Public Service Commission as required. The punishment order, therefore, suffers from non-application of mind, is non-speaking, and amounts to a colourable exercise of power. The doctrine of implied condonation or estoppel does not arise in such circumstances where the proceedings were initiated years after the alleged conduct, without proper enquiry or justification. The balance of evidence indicates that the petitioner acted under the supervision of senior officers and cannot be held personally liable for the disputed measurements.

Conclusion

28. In view of the above and the settled law in *Dr. K.G. Tiwari's (supra)*, the impugned punishment order dated 19.07.1995 (Annexure P-3) imposing stoppage of increment without future effect and recovery of Rs. 47,196/- and the communication dated 05.10.1999 (Annexure P-6) are set aside.
29. The respondents are hereby directed to release the amount recovered and also the other retiral benefits, after taking into account the completing of two annual increments which were ordered to be stopped, and the same shall be released to the petitioner with an interest of 6% p.a. from the date of accrual to the date of it's actual realisation within a period of 6 weeks from the date of receipt of certified copy of this order.
30. The present writ petition is allowed.
31. Pending applications, if any, stand disposed of.

20.02.2026
anuradha

(SANDEEP MOUDGIL)
JUDGE

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