



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

CWP-7293-2026

Date of decision: 11.03.2026

Rinkesh Kumar

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Rajeshwar Singh, Advocate
for the petitioner.

Mr. Vikas Arora, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the order dated 12.08.2021 (Annexure P-32) passed by respondent No.3, order dated 16.03.2022 (Annexure P-35) and order dated 21.10.2024 (Annexure P-38) passed by the Board of Directors.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was working as Assistant Lecturer at IHM, Bathinda under the Department of Tourism, Punjab. The petitioner was falsely implicated in case bearing FIR No.29 dated 02.03.2019 under Sections 354/506 of IPC registered at Police Station City, Bathinda. The petitioner was placed under suspension on 07.03.2019 and charge sheeted on 30.04.2019 (Annexure P-1) and departmental inquiry was initiated. The Inquiry Officer submitted a report on 09.12.2019, wherein, charges at serial No.1, 3, 6 and 7 were held proved, charge at serial No.2 was not proved and charges at serial No.4 & 5 were not decided as the matter was pending before learned Chief Judicial Magistrate.



The petitioner submitted a detailed reply to the show cause notices, however, dismissal order was passed on 12.08.2021 (Annexure P-32) without there being any valid evidence on record. The appeal filed by the petitioner was dismissed on 16.03.2022 (Annexure P-35) on the ground of delay. Further, review petition filed before the Board of Directors was dismissed on 21.10.2024 (Annexure P-38) on the ground that no provision for review exists. He further submits that the Inquiry Officer has relied upon the statements of witnesses which were neither made on affidavit nor affirmed by S.A. As such, the unverified statements cannot be treated as admissible evidence. The petitioner has suffered grave prejudice due to the order of dismissal being passed on the basis of such defective and unsubstantiated material. In the absence of any legally admissible evidence produced against the petitioner, the findings recorded by the Inquiry Officer cannot be sustained and, therefore, cannot be relied upon. Further, the appellate order is a non-speaking order and has been passed without due consideration of the material available on record. He also refers to the information obtained by the petitioner under the Right to Information Act, annexed as Annexure P-39 and submits that Rule 21 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 provides for review of such orders. In these circumstances, the entire inquiry stands vitiated and suffers from incurable illegality.

3. Learned counsel for the petitioner further relies upon the judgments rendered by this Court in Criminal Revision No.537 of 1991 titled as ***Gurmail Singh Vs. State of Punjab*** decided on 05.05.2003 and submits that this Court had acquitted the accused on the ground that the statements of witnesses were neither verified nor supported by notarised verification.



Consequently, the affidavit was held to be inadmissible in evidence. He further relies upon the judgment rendered by the Delhi High Court in Civil Revision No.434 of 1991 titled as *Shri Vidya Sagar Vs. Smt. Shakuntala Devi* decided on 07.11.1991; wherein; it was held that in eviction proceedings the tenant had filed an affidavit seeking leave to defend which was not duly attested. As such, leave to appeal was declined on account of defective affidavit. A similar view was taken by the Delhi High Court in Civil Revision No.345 of 1977 titled as *Sh. Arjun Dev Dewan Vs. Smt. Sheela Devi and others* decided on 01.02.1978.

4. Per contra, learned State counsel opposes the prayer made by learned counsel for the petitioner on the ground that the degree of satisfaction required in disciplinary proceedings is that of preponderance of probabilities. It is submitted that there is no legal requirement that the statements of witnesses must be supported by affidavits and, therefore, no prejudice has been caused to the petitioner. The petitioner was permitted to cross-examine the witnesses and, at every stage of the disciplinary proceedings, was afforded adequate opportunity to defend himself.

5. Learned State counsel further refers to Annexure P-10, i.e., the preliminary objection raised by the petitioner to the charge sheet regarding the non-applicability of the Punjab Civil Services (Punishment and Appeal) Rules, and submits that the petitioner cannot be permitted to blow hot and cold in the same breath. It is also submitted that the petitioner is facing serious charges of sexual harassment.

6. I have heard learned counsel for the parties and after perusal of the record of the case with their able assistance, it transpires that the petitioner has



not been able to point out any procedural irregularity in the manner in which the disciplinary proceedings were conducted which were carried out in accordance with the procedure prescribed under the applicable rules.

7. It is a trite law that disciplinary proceedings and criminal proceedings can continue simultaneously. The narrow legal question that arises for consideration is whether a departmental inquiry stands vitiated solely on the ground that the statements of witnesses were not verified.

8. It is well established that the strict and sophisticated rules of evidence as contained in the Indian Evidence Act, 1872, do not apply to departmental or domestic inquiries. The Constitution Bench of the Hon'ble Supreme Court in ***State of Mysore v. Shivabhasappa Shivappa Makapur***, AIR 1963 SC 375, has authoritatively laid down that a domestic tribunal exercising quasi-judicial authority is not bound to follow the procedure prescribed for the trial of actions in courts. It is not bound by the strict rules of evidence. The Court while speaking through Justice Venkatarama Aiyar observed:

*“3. The sole point for determination in this appeal therefore is whether the procedure adopted by the Deputy Superintendent of Police in admitting the statements of witnesses examined before Mr. Mujumdar in evidence is opposed to the rules of natural justice. The question is one of importance, because as appears from the cases which have come before us the procedure followed by the Deputy Superintendent of Police in this case is the one followed by many tribunals exercising quasi-judicial powers. For a correct appreciation of the position, it is necessary to repeat what has often been said that **tribunals exercising quasi-judicial functions are not Courts and that therefore they are not bound to follow the procedure prescribed for trial of actions in Courts nor are they bound by strict rules of evidence. They can, unlike Courts, obtain all information material for the points under enquiry from all sources, and through all channels, without being fettered by rules and procedure which govern proceedings in Court. The only obligation which the law casts on them is that they should not act on any information which they may receive unless they put it to the party***



against whom it is to be used and give him a fair opportunity to explain it. *What is a fair opportunity must depend on the facts and circumstances of each case but where such an opportunity had been given, the proceedings are not open to attack on the ground that the enquiry was not conducted in accordance with the procedure followed in Courts.”*

9. Further, A Three Judge Bench of the Hon’ble Supreme Court in ***State of Haryana v. Rattan Singh 1977(2) SCC 491***, while speaking through Justice V.R. Krishna Iyer observed as under:

“4. It is well settled that in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hear say evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and administrative tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act. For this proposition it is not necessary to cite decisions nor text books, although we have been taken through case law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding even though of a domestic tribunal, cannot be held good. However, the courts below misdirected themselves, perhaps, in insisting that passengers who had come in and gone out should be chased and brought before the tribunal before a valid finding could be recorded. The 'residuum' rule to which counsel for the respondent referred, based upon certain passages from American jurisprudence does not go to that extent nor does the passage from Halbsbury insist on such rigid requirement. **The simple point is, was there some evidence or was there no evidence - not in the sense of the technical rules governing regular court proceedings but in a fair commonsense way as men of understanding and wordly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the court to look into because it amounts to an error of law apparent on the record. We find, in this case, that the evidence of Chamanlal, Inspector of the flying squad, is some evidence which has relevance to the charge levelled against the respondent. Therefore we are unable to hold that the order is invalid on that ground.”**



10. Further the Hon'ble Supreme Court in ***Kuldip Singh v. State of Punjab, 1996 (10) SCC 659***, while dealing with a decision of the departmental inquiry based on the confession made to a police officer, held that the rules of the Evidence Act do not apply to departmental enquiries. It was observed that the only test is compliance with the principles of natural justice and the rules governing the enquiries, if any. The fact that a statement would be inadmissible in a criminal trial does not render it irrelevant or inadmissible in a departmental proceeding. The disciplinary authority is competent to decide whether a statement is voluntary and true and can act upon it.

11. Admittedly the witnesses, whose statements were relied upon, were produced before the Inquiry Officer. The petitioner was given a full and effective opportunity to cross-examine these witnesses. The requirement of the statement of witnesses being verified or supported by affidavit is a technical formality to attest the veracity of a statement in judicial proceedings. In a departmental inquiry, what is substantive is the opportunity to test the veracity of a witness's deposition through cross-examination, which was admittedly provided to the petitioner. To insist on a verification and an affidavit in such a scenario would be to "insist on technicalities," as deprecated by the Hon'ble Supreme Court in ***Shivappa Makapur (supra)***. The rules of natural justice are matters not of form but of substance, and they have been complied with.

12. Further, the reliance placed by the petitioner on Annexure P-39 is of no consequence, as even the information obtained by the petitioner under the Right to Information Act clearly indicates that, during the hearing, the officials of the department had clarified that the Institute of Hotel Management has its own set of service rules. As such, Rule 21 of the Punjab Civil Services

(Punishment and Appeal) Rules, 1970 is not applicable in the case of the petitioner.

13. The petitioner has failed to demonstrate that the inquiry was conducted in violation of natural justice, or that the findings are based on no evidence, or that the punishment is shockingly disproportionate and thus perverse. The submissions made by the petitioner essentially seek re-appreciation of evidence, which is beyond the scope of judicial review in writ jurisdiction, reliance in this regard may be placed on the judgement rendered by the Hon’ble Supreme Court in *Union of India vs. P. Gunasekaran, (2015) 2 SCC 610* and of this court in *Mandeep Singh vs. Punjab Gramin Bank and others CWP- 6121 of 2026*.

14. No other argument was raised.

15. In view of the discussion above and having considered the submissions of learned counsel for the parties, the present civil writ petition is hereby dismissed.

16. No order as to costs.

(HARPREET SINGH BRAR)
JUDGE

11.03.2026
Neha

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