

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-1480-2016 (O&M)

Gurpreet Singh Saini & Ors.

... Petitioners

VS.

FCI & Ors.

... Respondents

1.	Judgment reserved on	09.03.2026
2.	Judgment pronounced on	07.04.2026
3.	Judgment uploaded on	08.04.2026
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. Rajiv Sharma, Advocate for the petitioners

Mr. Deepak Gupta, Advocate for the respondents

Sandeep Moudgil, J.

Prayer

(1). The present petition has been filed under Articles 226/227 of Constitution of India praying for issuance of a writ in the nature of Certiorari for quashing the impugned order dated 10.05.2013 (Annexure P9), order dated 13/16.06.2014 (Annexure P11) and order dated 18.05.2015 (Annexure P14) passed by the respondents vide which recovery equivalent to reduction in time scale of pay by three stages for a period of three years without cumulative effect has been imposed and the said punishment order has been upheld by the appellate and reviewing authorities.

Facts

(2). The petitioners are the sons - legal representatives of deceased Bant Singh who had earlier filed CWP-24614-2015 which was permitted to be withdrawn with liberty to file afresh vide order dated 02.12.2015 (Annexure 1A) and since unfortunately passed away on 18.11.2015.

(3). The deceased Bant Singh joined the respondent-Corporation as Technical Assistant Gr-III on 19.08.1976 and thereafter gained promotions upto Technical Assistant Gr.I on 31.12.2009. Respondent No.4 issued a memo dated 09.01.2012 under Regulation 58 of the FCI (Staff) Regulations, 1971, (in short, the 1971 Regulations) for imposition of major penalty upon the Bant Singh and other officials alleging that they were responsible for tampering original storage loss of 0.88%; for accepting more than 15 consignments than what was permitted as per instructions; for violating the criteria of FIFO in July, 2011 and for making cuttings/over-writing in TA wise analysis register.

(4). An enquiry was conducted into the said allegations against Bant Singh and others and without appreciating the evidence on record, the charges were partly proved against Bant Singh vide enquiry report dated 02.02.2013 (Annexure P6) and consequently, respondent No.4 without considering the pleas of Bant Singh as made in the representation, passed the impugned order dated 10.05.2013 (Annexure P9) imposing upon him the penalty of recovery equivalent to reduction in time scale of pay by three stages for a period of three years with cumulative effect.

(5). The father of the petitioner preferred appeal under Regulation 69/70 of the 1971 Regulations before respondent No.3 on 25.06.2013 and in the meantime, the petitioner retired from service on 31.10.2013. The appellate authority granted meager relief by modifying the penalty from “recovery equivalent to reduction in time scale of pay by three stages for a period of three years with cumulative effect” to “recovery equivalent to reduction in time scale of pay by three stages for a period of three years without cumulative effect” vide impugned order dated 13/16.06.2014 (Annexure P11). Bant Singh

thereafter invoked Regulation 74 of the 1971 Regulations and filed review petition before MD of FCI – respondent NO.2, however that petition too was dismissed vide order dated 18.05.2015 (Annexure P14).

(6). Hence this writ petition.

Contentions of the petitioner

(7). Learned counsel for the petitioner contends that the allegation is against manipulation of moisture entries in the storage loss statement for rice stocks liquidated in July 2011, where custody and safe-keeping of stocks (bags and weight) admittedly lay with identified depot officials, who were the real custodians and actual beneficiaries of any unjustified storage loss. The disciplinary authority itself notes that the cuttings in moisture figures “would have been detected at the time of MIR of Manager (QC)” and that Bant Singh was “not the beneficiary” of the cuttings/overwriting, yet, in the same breath, concludes that he “has connived” with depot staff without pointing to any concrete evidence, motive, or wrongful gain on his part, thus resting the finding purely on suspicion.

(8). He further contends that such an approach offends the settled law that even in domestic enquiries, suspicion or presumption, however strong, cannot take the place of proof and there must be some tangible material establishing involvement, which is wholly absent here, especially when Bant Singh had, prior to the penalty, repeatedly represented on numerous occasions to the disciplinary authority seeking personal hearing to expose misconduct of depot officials, conduct wholly inconsistent with any alleged collusion but the same was never granted.

(9). It is argued that Regulation 54(iii) of the 1971 Regulations permits a recovery penalty only to make good quantified pecuniary loss caused by an employee due to his negligence or breach of orders, yet in the present case the memorandum dated 09.01.2012 does not quantify any specific loss attributable to Bant Singh, rendering the recovery component of the penalty *ex facie ultra vires* the Regulation and liable to be set aside. He then submits that although the same memorandum initiated major penalty proceedings under Regulation 58 of the 1971 Regulations against Jagjiwan Singh, Meena Kumari, Kamlesh Kumari and Bant Singh on an identical allegation of manipulation of moisture contents, the appellate authority, while exonerating co-charged officials by extending benefit of doubt, chose only to modify (and not annul) the punishment of Bant Singh, thereby meting out unequal treatment amongst similarly placed delinquents without any special role or distinguishing material against him, in clear breach of Articles 14 and 16 of the Constitution of India as recognised by this High Court in “**Sadhu Ram v. Punjab State Cooperative Supply & Marketing Federation Ltd., 1991 (3) RSJ 280**”, where it was held that a co-accused cannot be singled out for punishment when others similarly situated are exonerated in absence of any distinct role.

Respondents counter

(10). Learned counsel for the respondents, on the basis of the reply filed by the respondents submits that the disciplinary action against late Bant Singh is fully justified as it is based on a regular enquiry, clear documentary material and the findings of the competent authorities. It is submitted that Bant Singh was specifically charge-sheeted for cutting/overwriting and manipulation in the Storage Loss Statement (SLS) at Sirhind Centre, and the Enquiry Officer, after

affording full opportunity to the charged official, categorically held him guilty of the charges and the RO Squad report itself records that cuttings/overwriting in almost all stacks in the technical/stackwise analysis registers were made by Bant Singh and duly verified by him and by the Manager (QC), and that there was also a clear violation of the mandatory FIFO principle governing issue and liquidation of foodgrains, which has a direct nexus with storage loss norms and control of avoidable losses in FCI godowns.

(11). It is further asserted that the plea of the petitioners that only godown/depot staff could be held responsible for storage loss is misconceived and contrary to departmental policy, as storage loss is determined by taking into account multiple factors and is the joint responsibility of both godown and technical staff; moisture content and its correct recording at receipt and at liquidation is a critical parameter, and in this case the technical staff, including Bant Singh, have rightly been held responsible for incorrect recording/manipulation in the MC column leading to the impugned storage loss. The petitioners' allegations of bias in appointment of the Enquiry Officer and of denial of reasonable opportunity are bald and unfounded, as there is no legal embargo on the discretion of the competent authority to appoint any suitable officer as Enquiry Officer, and Bant Singh was given full opportunity to participate and represent his case during the enquiry; his various letters and representations are matters of record but cannot override the specific findings of manipulation noted in the RO Squad report and accepted by the disciplinary and appellate authorities.

(12). Heard learned counsel for the parties and the judgment was kept reserved on 09.03.2026.

Analysis

(13). On an overall conspectus of the material on record, this Court is of the view that the impugned punishment orders cannot be sustained as against late Bant Singh. The very penalty order records that he was “not the beneficiary” of the cuttings/over-writing and that such cuttings should have been detected at the stage of MIR by the Manager (QC), yet the disciplinary authority still proceeds to infer “connivance” without identifying any cogent evidence of motive, benefit or specific overt act beyond the circumstance that the cuttings bore his verification.

(14). In service law, even though the standard is one of preponderance of probabilities, the finding has to rest on some tangible material, and mere suspicion or conjunctures cannot substitute proof in a disciplinary enquiry. This is particularly so where the charged employee, instead of suppressing the matter, had been persistently writing representations prior to the penalty, seeking personal hearing to highlight alleged misconduct of depot staff, a course of conduct difficult to reconcile with the theory of collusion.

(15). The Supreme Court in **Nirmala J. Jhala v. State of Gujarat, AIR 2013 SC 1513**, has categorically held that even in domestic enquiries, though the strict rules of the Evidence Act do not apply, the findings cannot be based on surmises and conjectures and must be supported by some legal evidence on record, and that an Enquiry Officer cannot reject relevant testimony or return adverse conclusions merely on suspicion.

(16). In **M. V. Bijlani v. Union of India and Ors., AIR 2006 SC 3475**, emphasized that there should be some evidences to prove the charge even in

disciplinary proceedings and it was incumbent upon the enquiry officer performing quasi-judicial function to analyse the documents and ascertain if there had been preponderance of probabilities to prove the charges. The relevant extract read as under:-

“ ... Disciplinary proceedings, however, being quasicriminal in nature, there should be some evidences to prove the charge. Although the charges in a departmental proceedings are not required to be proved like a criminal trial, i.e., beyond all reasonable doubts, we cannot lose sight of the fact that the Enquiry Officer performs a quasi-judicial function, who upon analysing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures.” (Emphasis added)

(17). This Court also finds force in the submission of the petitioner that serious adverse action based on “doubtful integrity” or alleged misconduct cannot rest on mere suspicion, conjectures, or no evidence, and that past record and probabilities must be taken into account. In this regard, reference can be made to Supreme Court decision in **M. S. Bindra v. Union of India, (1998) 7 SCC 310**, wherein it was held that even in matters like compulsory retirement, a conclusion regarding a government servant’s doubtful integrity cannot be drawn on the basis of mere suspicion or unsubstantiated material, and that such drastic action must rest on credible evidence, keeping in view the entire service record and probabilities of the case. The Supreme Court cautioned that a long, blemish-free career cannot be lightly brushed aside and that an officer cannot

be branded dishonest overnight on conjectural inferences. The relevant extracts of the said judgment is reproduced as under:-

“While evaluating the materials the authority should not altogether ignore the reputation in which the officer was held till recently. The maxim "Nemo Firut Repente Turpissimus" (no one becomes dishonest all on a sudden) is not unexceptional but still it is salutary guideline to judge human conduct, particularly in the field of Administrative Law. The authorities should not keep the eyes totally closed towards the overall estimation in which the delinquent officer was held in the recent past by those who were supervising him earlier. To dunk an officer into the puddle of "doubtful integrity" it is not enough that the doubt fringes on a mere hunch. That doubt should be of such a nature as would reasonably and consciously be entertainable by a reasonable man on the given material. Mere possibility is hardly sufficient to assume that it would have 10 Page 11 happened. There must be preponderance of probability for the reasonable man to entertain doubt regarding that possibility. Only then there is justification to ram an officer with the label 'doubtful integrity'.”

(18). In addition, the recovery element of the punishment runs contrary to Regulation 54(iii) of the 1971 Regulations, which contemplates a recovery only to make good a quantified pecuniary loss caused “by an employee” on account of his negligence or breach of orders. In the present case, the memorandum dated 09.01.2012 does not attribute or quantify any specific financial loss as having been caused by Bant Singh personally, and the orders are, therefore, ultra vires to that extent.

(19). That apart, the inequality in treatment amongst co-delinquents further vitiates the action inasmuch as the same memorandum initiated proceedings on an identical charge of manipulation of moisture contents against Jagjiwan Singh, Meena Kumari, Kamlesh Kumari and Bant Singh, yet in

appeal the co-charged officials were exonerated on benefit of doubt, while only Bant Singh's punishment was maintained in a modified form without any demonstrable, distinct role ascribed to him. Such singling out of one co-accused in the absence of differentiating material is impermissible and offends Articles 14 and 16 as the delinquent employee cannot be visited with punishment when similarly situated co-accused have been spared in the absence of any special role or aggravating factor.

(20). It would be apposite first to notice the principles culled out by the Supreme Court in **Lucknow Kshetriya Gramin Bank v. Rajendra Singh, (2013) 12 SCC 372**. In the said decision, while dealing with the question of disparity in punishment amongst co-delinquents involved in the same incident, the Court, after referring to **Rajendra Yadav v. State of M.P., (2013) 3 SCC 73**, explained that though the disciplinary authority has discretion in awarding punishment, such discretion is not unfettered and cannot be exercised in a manner that results in hostile discrimination between employees who stand on an equal footing in respect of charges, role and surrounding circumstances. It was held, in substance, that where there is complete parity between co-delinquents as regards the nature of misconduct and their participation in the incident, imposition of a substantially harsher penalty on one of them, while awarding a lesser punishment or exonerating the others without any rational distinguishing basis, may offend Article 14, as all similarly circumstanced persons are entitled to be treated alike in the matter of penalty. The principles thus summed up and summarized by the Supreme Court in **Lucknow Kshetriya Gramin Bank** read as under:-

“(a) When charge(s) of misconduct is proved in an enquiry the quantum of punishment to be imposed in a particular case is essentially the domain of the departmental authorities;

(b) The Courts cannot assume the function of disciplinary/departmental authorities and to decide the quantum of punishment and nature of penalty to be awarded, as this function is exclusively within the jurisdiction of the competent authority;

(c) Limited judicial review is available to interfere with the punishment imposed by the disciplinary authority, only in cases where such penalty is found to be shocking to the conscience of the Court;

(d) Even in such a case when the punishment is set aside as shockingly disproportionate to the nature of charges framed against the delinquent employee, the appropriate course of action is to remit the matter back to the disciplinary authority or the appellate authority with direction to pass appropriate order of penalty. The Court by itself cannot mandate as to what should be the penalty in such a case.

(e) The only exception to the principle stated in para (d) above, would be in those cases where the co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of misconduct was identical or the co- delinquent was foisted with more serious charges. This would be on the Doctrine of Equality when it is found that the concerned employee and the co-delinquent are equally placed. However, there has to be a complete parity between the two, not only in respect of nature of charge but subsequent conduct as well after the service of charge sheet in the two cases. If co-delinquent accepts the charges, indicating remorse with unqualified apology lesser punishment to him would be justifiable.”

(21). Based on the judicial pronouncements referred to above, it can be summed up that the findings in disciplinary proceedings must rest on some legal evidence and cannot be founded merely on surmises and conjectures. Besides, serious adverse action imputing lack of integrity cannot be sustained

on suspicion while ignoring the overall service record and probabilities and that co-delinquents similarly placed in respect of the same incident and charges cannot, without rational basis, be subjected to disparate punishment offending Article 14 of the Constitution. This Court is thus satisfied that the inference of “connivance” drawn against late Bant Singh and the unequal treatment meted out to him, as compared to his co-charged colleagues, are legally unsustainable. The impugned orders, to the extent they uphold the finding of guilt and penalty against late Bant Singh despite absence of concrete evidence or distinct role stand vitiated as arbitrary being based on conjecture and surmises

Conclusion

(22). Accordingly, this writ petition is allowed and the impugned order dated 10.05.2013 (Annexure P9), order dated 13/16.06.2014 (Annexure P11) and order dated 18.05.2015 (Annexure P14) are quashed. The petitioners, being the legal representatives of Bant Singh, shall be entitled to all consequential monetary benefits, including restoration/re-fixation of pay and retiral dues as if no such penalties had been imposed, after adjusting amounts already paid, which exercise shall be completed by the respondents within a period of two months from the date of receipt of a certified copy of this judgment.

(23). Pending applications stand disposed of accordingly.

07.04.2026

V.Vishal

(Sandeep Moudgil)
Judge

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

Yes/No
Yes/No