



LPA-1949-2011 (O&M)

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

LPA-1949-2011 (O&M)

J.L. PURI

...Appellant

Vs.

UNITED INDIA INSURANCE COMPANY LTD. AND ANOTHER

...Respondents

Reserved on: 16.01.2026

Pronounced on: 16.04.2026

Judgment uploaded on: 20.04.2026

Whether only the operative part of the judgment is pronounced or whether the full judgment is pronounced: Full Judgment

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. K.L. Arora, Advocate
for the appellant.

Mr. D.R. Bansal, Advocate
Ms. Anjali Bansal, Advocate
for the respondents.

ROHIT KAPOOR, J.

The instant Letters Patent Appeal under clause X of the Letters Patent has been filed against the judgment and order dated 18.08.2011, passed by the learned Single Judge in CWP-12971-2011, whereby the writ petition filed by the appellant-petitioner was dismissed *in limine*. The appellant was an employee of the United India Insurance Company Limited-respondent No.1, who was removed from service vide order dated 24.03.1995.

FACTUAL MATRIX

2. Briefly stated, the relevant facts are that the appellant joined the services of Vulcan Insurance Company Limited in the year 1970 and was appointed as Assistant Branch Secretary with respondent No.1, after the merger

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of Vulcan Insurance Company Limited with respondent No.1 upon nationalization of the insurance business. Over the years, he rose through the ranks and was working as Senior Divisional Manager at the Delhi Divisional Branch in the year 1988. As per the appellant, the division headed by him was awarded the first prize on account of overall best performance in the year 1988, and his service record was consistently 'good', 'very good', and 'excellent' throughout his career.

3. Two sets of disciplinary proceedings were initiated against the appellant. The first arose from a charge-sheet dated 09.10.1991 (Charge-sheet No.1) involving six articles of charge relating to alleged irregularities in the settlement of motor vehicle insurance claims, while the appellant was posted as Divisional Manager at Ludhiana. While the first five charges pertained to alleged payments of false/fraudulent motor claims, irregular settlement, and passing of exaggerated claims, charge No.6 related to unauthorized payment of agency commission to the tune of Rs.1,90,061/- to various agents during 1986 to 1988 instead of giving special discount to the insured.

4. During the pendency of the disciplinary proceedings arising from the charge-sheet No.1, another charge-sheet dated 17.02.1993 (Charge-sheet No.2) was issued against the appellant-petitioner, which alleged:

- (i) unauthorized absence for about 341 days during 1991-93; and
- (ii) failure to appear before the Medical Board at Dr. Ram Manohar Lohia Hospital, New Delhi, for a second medical examination.

5. An enquiry was conducted in pursuance to charge-sheet No.2 and as per the Enquiry Officer's report dated 03.02.1994, charge No.1 stood partly proved to the extent that the appellant was held guilty of unauthorized absence for a period of 174 days, while charge No.2 was not proved. The disciplinary



authority vide order dated 30.06.1994 imposed a major penalty of reduction to a lower post i.e. Assistant Manager and reduction of his basic pay to the starting of basic pay applicable to that cadre. It was further directed that the period of unauthorized absence shall not be counted for any other service benefits.

6. In the enquiry proceedings pertaining to charge-sheet No.1, the Enquiry Officer, after conducting the enquiry, submitted his enquiry report dated 28.06.1994, holding all six articles of charge as proved. The disciplinary authority, vide order dated 24.03.1995, imposed a major penalty of removal from service, which shall not be a disqualification for future employment.

7. The appellant allegedly filed departmental appeals against both the penalty orders, on 05.10.1994 and 26.05.1995. He claims to have filed additional points of appeal on 06.07.2006 and 09.07.2006 respectively. As the appellant claimed that his appeals were not being accorded consideration, he approached the Writ Court by filing CWP-10030-2003 *inter alia* praying for a direction for reinstatement or, in the alternative, for adjudication of his appeals. Respondent No.1 in its response, denied the claim of the appellant that any such appeals were ever filed by him. The aforesaid writ petition came to be disposed of by the learned Single Judge of this Court vide order dated 01.11.2010, with liberty to the petitioner to submit fresh representation-cum-appeal within a period of one month. The learned Single Judge also directed the appellate authority to consider and dispose of the same in accordance with law, with an opportunity of personal hearing, if so permitted under the Rules.

8. Pursuant to the aforesaid directions, the appellant submitted fresh representation(s)/appeal(s), which were decided by passing two separate orders.

The appeal against the order dated 30.06.1994, imposing a major penalty of



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reduction to a lower post and reduction of basic pay, etc., on account of absence for a period of 174 days, was rejected vide order dated 01.04.2011 by the appellate authority by *inter alia* observing that the procedure prescribed under the 'General Insurance (Conduct, Discipline and Appeal) Rules, 1975' (hereinafter referred to as 'Rules of 1975') had been duly complied with, and the findings of the disciplinary authority as regards the charge of unauthorized absence for 174 days, having been proved, is fully justified. It was also observed that the penalty imposed is in proportion to the gravity of the misconduct committed by the appellant/delinquent employee. The second appeal filed against the order dated 24.03.1995, whereby the appellant was removed from service, was rejected vide order dated 16.03.2011. The appellate authority, after noticing each charge separately, passed a detailed and reasoned order after taking into consideration all points/additional points raised by the appellant.

9. The appellant challenged both these orders, along with the original orders of punishment, by filing CWP No. 12971 of 2011, which has been dismissed by the learned Single Judge vide order dated 18.08.2011.

10. While dismissing the aforesaid petition of the appellant, the learned Single Judge, after duly noticing the relevant facts and rival contentions of the parties, and on the basis of material available on record, came to the conclusion that the procedure prescribed under the rules regarding serving the employee with the notice and regarding date of hearing during the enquiry proceedings was duly followed, and the appellant failed to prove that the findings in this regard could be faulted. To the contrary, the learned Single Judge, while adverting to the various communications available on record, came to the conclusion that the appellant was himself to blame for his absence and, given the factual position, it



cannot be said that the relevant service rules were violated. While examining the correctness and legality of the appellate orders, the learned Single Judge was of the view that the relevant facts and points raised by the appellant have been duly noticed, and that keeping in view the fact that the order of removal from service is a detailed and reasoned order, the objection of the appellant that the other order was lacking detailed consideration of all his objections, pales into insignificance. Having found that full opportunity of hearing was given to the petitioner during the enquiry and he himself absented before the enquiry officer, it was held that the appellate orders cannot be said to be vitiated. It is in this backdrop that the instant Letters Patent Appeal has been filed before us.

SUBMISSIONS ON BEHALF OF THE APPELLANT

11. Shri K.L. Arora, learned counsel for the appellant has argued that the learned Single Judge has failed to take into consideration the undisputed fact that the appellant was not afforded an opportunity of hearing by the appellate authority, which is in violation of the basic tenets of the principles of natural justice, and the entire proceedings stood vitiated on this ground alone. It is contended that despite the fact that the judgments wherein this principle of law stands crystallized were cited before the learned Single Judge, the issue has not been dealt with and the impugned judgment is, therefore, required to be set aside on this ground alone.

12. Reliance has been placed upon the judgments in *Ram Niwas Bansal vs. State Bank of Patiala*¹, *Gulab Singh vs. Maharshi Dayanand University, Rohtak and others*², and *Ram Chander vs. Union of India*³.

¹ 1998 (3) SCT 550

² 2005 (1) RSJ 458

³ AIR 1986 SC 1173



13. The second argument pressed by the learned counsel for the appellant is that the impugned order dated 01.04.2011 passed by the appellate authority was a non-speaking order, having been passed without assigning any reasons, and the contentions raised by the appellant were not dealt with, showing non-application of mind. It is urged that no opportunity of hearing was provided even while passing the said order. The law laid down in the case of *S.N. Mukherjee v. Union of India*⁴ and *British India Corporation Limited, Dhariwal, District Gurdaspur vs State of Punjab and others*⁵, as regards the requirement of passing a speaking order has been relied upon in support of the said contention.

14. It is further contended that the statutory provisions contained in Rule 25(8),(11),(13),(14),(15),(16) and 37(2) of the Rules of 1975 have been violated in the course of conducting the disciplinary proceedings, inasmuch as no opportunity to cross-examine or lead evidence in defence was provided to the appellant, nor did the appellate authority take into consideration the mandate cast upon it to examine whether the procedure prescribed under the rules was complied with. It is therefore argued that the impugned decisions of the appellate authority, having been passed in contravention of the statutory provisions, were required to be set aside.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

15. *Per contra*, learned counsel for the respondents have opposed the arguments raised on behalf of the appellant by *inter alia* contending that the records reveal that the appellant was duly served with all the notices and he

⁴ AIR 1990 SC 1984

⁵ 2004 (3) RSJ 96



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deliberately abstained from the enquiry proceedings. Adequate opportunities were granted to him, which were not availed. The findings by the Enquiry Officer are based on evidence and cannot be re-appreciated in writ jurisdiction. Once the appellate order dated 16.03.2011 is shown to be detailed and reasoned, then no prejudice could be shown to have been caused to the appellant. Our attention has been drawn to the documents Annexure R-1 to R-6, that are available on record, to show that after passing of the order of removal from service, the appellant applied for payment of his terminal monetary benefits, i.e., Provident Fund, Gratuity, GSLI, etc., and thereafter twice reminded the respondents for immediate release of the said dues. After having received the said terminal monetary benefits in the year 1997, he is estopped by his own act and conduct to challenge the punishment order of removal from service, which would be presumed to have been accepted by him voluntarily once he applied and received the payment of the terminal benefits.

ANALYSIS AND DISCUSSION

16. We have heard the learned counsel for the parties and have gone through the material available on record, with their able assistance.

17. The following issues arise for our consideration in the instant appeal:-

- i. Whether the departmental enquiry suffered from the violation of principles of natural justice/procedural error?
- ii. Whether the appellate orders are vitiated for being non-speaking and on account of denial of opportunity of hearing to the appellant?



18. Before examining the said issues in the light of the factual matrix, it will be useful to set out the relevant statutory provisions as contained in the Rules of 1975, which are extracted as under:-

“23. Penalties :-

Without prejudice to the provisions of other rules, any one or more of the following penalties may for good and sufficient reasons, and as hereinafter provided, be imposed by the competent authority on an employee who commits a breach of discipline, or who is guilty of any other act prejudicial to good conduct:-

xxx

Major Penalties :-

(d) xxx

(e) *reduction to a lower service or post or to a lower time-scale, or to a lower stage in a time-scale;*

(f) xxx

(g) *removal from service which shall not be a disqualification for future employment;*

xxx

25. Procedure for imposing Major Penalties :-

xxx

(8) *If the employee does not plead guilty, the inquiring authority shall adjourn the case to a later date not exceeding thirty days, after recording an order that the employee may, for the purpose of preparing his defence:*

(i) *inspect the documents listed with the charge-sheet;*

(ii) *submit a list of additional documents and witnesses that he wants to examine; and*

(iii) *be supplied with the copies of the statements of witnesses, if any, listed in the charge-sheet.*

Note:

Relevancy of the additional documents and the witnesses referred to in sub-clause 8 (ii) above will have to be given by the employee concerned and the documents and the witnesses shall be summoned if the inquiring authority is satisfied about their relevance to the charges under enquiry.



(9) xxx

(10) xxx

(11) *On the date fixed for the enquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the competent authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the employee. The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on a new matter, without the leave of the Enquiry Authority. The Enquiry Authority may also put such questions to the witnesses as it thinks fit.*

(13) *When the case for the competent authority is closed, the employee may be required to state his defence, orally or in writing, as he may prefer. If the defence is made orally; it shall be recorded and the employee shall be required to sign the record. In either case a copy of the statement of defence shall be given to the Presenting Officer, if any, appointed.*

(14) *The evidence on behalf of the employee shall then be produced. The employee may examine himself in his own behalf if he so prefers. The witnesses produced by the employee shall then be examined and shall be liable to cross-examination, re-examination and examination by the enquiry authority according to the provision applicable to the witnesses for the competent authority.*

(15) *The Inquiring Authority may, after the employee closes his case, and shall, if the employee has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the employee to explain any circumstances appearing in the evidence against him.*

(16) *After the completion of the production of the evidence, the employee and the Presenting Officer may file written briefs of their respective cases within 15 days of the date of completion of the production of evidence.*

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26. Action on the enquiry report:-

(1) *The competent authority, if it is not itself the inquiring authority, may, for reasons to be recorded by it in writing remit the case to the inquiring authority for fresh or further enquiry and report and the inquiring authority*



shall thereupon proceed to hold the further enquiry according to the provisions of rule 25 as far as may be.

(2) The competent authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.

(3) If the competent authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the penalties specified in rule 23 should be imposed on the employee it shall, notwithstanding anything contained in rule 27 make an order imposing such penalty.

(4) If the competent authority having regard to its findings on all or any of the articles of charge, is of the opinion that no penalty is called for, it may pass an order exonerating the employee concerned.

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37. Consideration of Appeals:-

(1) In the case of an appeal against an order of suspension, the appellate authority shall consider whether in the light of the provisions of Rule 20 and having regard to the circumstances of the case the order of suspension is justified or not and confirm or revoked the order accordingly.

(2) In the case of an appeal against an order imposing any of the penalties specified in Rule 23, the appellate authority shall consider :-

(a) whether the procedure prescribed in these Rules has been complied with, and if not, whether such non-compliance has resulted in failure of justice;

(b) whether the findings are justified; and

(c) whether the penalty imposed is excessive, adequate, or inadequate, and pass orders :-

(i) setting aside, reducing, confirming or enhancing the penalty;

or

(ii) remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case.

Provided that :-



(i) the appellate authority shall not impose any enhanced penalty which neither such authority nor the authority which made the order appealed against is competent in the case to impose;

(ii) no order imposing an enhanced penalty shall be passed unless the appellant is given an opportunity of making any representation which he may wish to make against such enhanced penalty ; and

(iii) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties in clause (b) to (h) of Rule 23, and an enquiry under the said rule has not already been held in the case, the appellate authority shall itself hold such enquiry or direct that such enquiry be held and thereafter on consideration of the proceedings of such enquiry and after giving the appellant an opportunity of making any representation which he may wish to make against such penalty, pass such orders as it may deem fit.

3) All appeals should be disposed of as expeditiously as possible and in any event not later than 6 months from the date of receipt of the appeal by the appellate authority.”

Issue No.(i):-

19. Having noticed the statutory framework as reproduced hereinabove, the first issue regarding violation of principles of natural justice and/or failure to adhere to the prescribed procedure during the course of enquiry, is required to be examined. The principal grievance is that the enquiry was proceeded *ex parte* and the opportunity to defend was denied. However, as noticed by the learned Single Judge, the records reveal that notices were sent to the appellant at multiple addresses by way of registered post, and proof of service was available on record. The appellant did not participate despite service. Even thereafter, documents and proceedings were forwarded to him. There is no allegation of any bias or *mala fide* against the Enquiry Officer. In such circumstances, the learned Single Judge has correctly held that the appellant has to blame himself for non-participation.



Law is well settled that natural justice cannot be stretched to protect deliberate non-participation. In any case, the Writ Court, while exercising its powers under Article 226 of the Constitution of India, cannot act as an appellate authority and decide disputed questions of fact. We are therefore of the view that the appellant has failed to demonstrate that the departmental enquiry was conducted in breach of the principles of natural justice and/or the statutory procedure as set out under the Rules of 1975, and issue No.(i) is therefore answered accordingly.

Issue No.(ii):-

20. The appellant has raised two-fold argument while assailing the orders passed by the appellate authority. The first argument raised is as regards denial of opportunity of hearing and by relying upon the judgment of a Full Bench of this Court in ***Ram Niwas Bansal*** (supra), it has been argued that even if the statutory rules do not provide for an opportunity of hearing at the appellate stage, the same is a *sine qua non*, keeping in view the basic tenets of the principles of natural justice, and failure to provide such opportunity would in itself be prejudicial to the case of the delinquent officer. Before testing the argument raised in the factual context of the instant case, it would be relevant to extract the observations made by the Hon'ble Supreme Court of India in the case of ***Oriental Bank of Commerce and another vs. R.K. Uppal***⁶, wherein, after considering the view taken by the Full Bench in the case of ***Ram Niwas Bansal*** (supra), it was *inter alia* held as under:-

“22. It is now fairly well settled that the requirements of natural justice must depend on the circumstances of the case, the nature of the enquiry, the rules under which the tribunal is acting, the subject matter that is being dealt with and so forth. In the words of Ramaswami, J. (Union of India & Anr. v.

⁶ (2011) 8 SCC 695



P.K. Roy¹²) the extent and application of the doctrine of natural justice cannot be imprisoned within the straitjacket of a rigid formula. The application of the doctrine depends upon the nature of jurisdiction conferred on the administrative authority, upon the character of the rights of the persons affected, the scheme and policy of the statute and other relevant circumstances disclosed in the particular case.

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24. The appeal provision in regulation 17 of the 1982 Regulations does not expressly provide for personal hearing to the appellant. Is the right of personal hearing to the appellant implicit in the provision? We think not. In our considered view, in the absence of personal hearing to the appellant, it cannot be said that the very right of appeal is defeated. One situation is, however, different. Where the appellate authority proposes to enhance the penalty, obviously, the appellate authority must issue notice to the delinquent asking him to show cause why penalty that has been awarded to him must not be enhanced and give him personal hearing. It is so because the appellate authority seeks to inflict such punishment for the first time which was not given by the disciplinary/punishing authority. Although there are no positive words in regulation 17, requiring that the appellant shall be heard before enhancement of the penalty, the fairness and natural justice require him to be heard.

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26. However, personal hearing may not be required where the appellate authority, on consideration of the entire material placed before it, confirms, reduces or sets aside the order appealed against. Regulation 17 of the 1982 Regulations does not require that in all situations personal hearing must be afforded to the delinquent by the appellate authority. The view taken by the Full Bench of Punjab and Haryana High Court in the case of Ram Niwas Bansal is too expansive and wide and cannot be held to be laying down correct law particularly in light of the judgment of this Court in Mahendra Kumar Singhal⁴. We answer this question accordingly.”



21. A perusal of the second proviso to Rule 37(2), as reproduced hereinabove, would show that it is only when the appellate authority decides to impose an enhanced penalty, than the penalty imposed by the disciplinary authority, that it is required to give an opportunity to the delinquent employee, of making any representation against such enhanced penalty. The requirement of issuing a show cause notice and opportunity of personal hearing is restricted to a situation where the appellate authority proposes to enhance the penalty, as held by the Supreme Court in paragraph 24 of the judgment in the case of ***Oriental Bank of Commerce and another*** (supra). The second proviso to Rule 37(2) contains a procedural safeguard of mandatory opportunity of representation before passing of any order of enhanced penalty by the appellate authority. However, since in the facts of the instant case, the appellate authority merely confirmed the penalty imposed by the disciplinary authority, the orders passed by it, cannot be faulted on this ground.

22. The argument in this regard is also required to be tested in the backdrop of certain peculiar facts and circumstances involved in the instant matter. Undisputedly, the appellant had approached this Court on an earlier occasion by way of filing CWP-10030-2003, which was disposed of with the following observations:-

“(4) The writ petition is accordingly disposed of with liberty to the petitioner to submit a fresh representation-cum-appeal within a period of one month from the date of receipt of a certified copy of this order and on receipt thereof, the appellate authority of the respondent-Corporation shall consider and dispose of those appeal(s)/representation(s) in accordance with law and if so permitted under the rules, by affording an opportunity of personal hearing to the petitioner, as early as possible but not later than four months from the date of receipt of such appeal(s)/representation(s).”

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(Emphasis supplied by us)

23. Undisputedly, the said order has attained finality, and the appellant cannot now be permitted to raise a ground that even in the absence of any such provision in the statutory rules, it was mandatory for the appellate authority to have provided him with an opportunity of hearing. The judgments relied upon by the appellant in this regard, including the judgment of a Full Bench of this Court in *Ram Niwas Bansal* (supra), would not come to the aid of the appellant on this ground itself, since the facts involved therein were distinct.

24. As regards the challenge to the orders passed by the appellate authority on account of the same being non-speaking, we find such ground to be devoid of any merit. Perusal of the orders passed by the appellate authority would show that it has given its reasons for concurring with the opinion of the disciplinary authority. The order dated 16.03.2011 affirming his removal from service has dealt with all the arguments raised by the appellant vis-à-vis each article of charge individually and separate findings have been recorded thereupon. Such order cannot be said to be non-speaking in any manner. Even the order dated 01.04.2011 is a well-reasoned and sound order, and even if it were to be taken that all the objections raised by the appellant, were not dealt with at length, the same would be of no consequence, once the order affirming the appellant's removal from service, is upheld. We find ourselves to be in respectful agreement with the observations made by the learned Single Judge, in this regard.

25. The matter requires to be examined from another angle also. Records reveal that the appellant has already received all terminal benefits after the passing of the order of removal from service in the year 1997. Perusal of the letters dated 21.11.1997 (Annexure R-3) and dated 25.09.1997 (Annexure R-4)



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would clearly show that the appellant repeatedly approached the respondents for release of his terminal benefits. The factual position of him having received such terminal benefits, has not been disputed before us.

26. In such circumstances, we find force in the argument raised by the respondents that the appellant would be precluded from challenging the orders passed during the course of the disciplinary proceedings on this solitary ground alone. Be that as it may, for the reasons recorded above, the orders passed by the appellate authority cannot be said to be vitiated on the grounds raised by the appellant. Issue No.(ii) is answered accordingly.

27. As a result thereof, the judgment of the learned Single Judge does not warrant any interference, as the same does not suffer from any perversity or illegality. The instant appeal must therefore fail and is **dismissed** accordingly.

28. Pending applications, if any, stand disposed of accordingly.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

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