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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-39575-2025

Date of decision: 21.01.2026

Arun Shekhar

....Petitioner

Versus

State of Punjab and others

...Respondents

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

Mr. Vikas Arora, DAG, Punjab.

Mr. Gurnoor Singh Sethi, Advocate
for the respondents-PSPCL.**HARPREET SINGH BRAR, J. (ORAL)**

1. The present civil writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing of letter No.235/D-11675/T-2 dated 16.04.2021 (Annexure P-22) and order dated 18.12.2023 (Annexure P-26). Further, for issuance of a writ in the nature of *mandamus* directing respondents No.1 & 2 to stay the operation of the letter dated 16.04.2021 (Annexure P-22).

2. On 14.01.2026, the following order was passed:-

“Prayer in this writ petition filed under Article 226 of the Constitution of India, is for issuance of a writ in the nature of certiorari, for quashing the letter No.235/D-11675/T-2 dated 16.04.2021 (Annexure P-22) whereby despite being exonerated in the enquiry report, the petitioner has been issued a Warning Letter and the order dated 18.12.2023 (Annexure P-26) vide which the appeal filed by



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the petitioner has been dismissed. Further a writ of mandamus has been sought, directing respondent No.1 and 2 to stay the operation of the letter dated 16.04.2021 (Annexure P-22) during the pendency of the present writ petition.

Learned counsel for the petitioner, inter alia, contends that the petitioner, who was on approved half-day leave on 04.07.2019 due to a bereavement (Annexure P-2), was called upon to respond to a newspaper article highlighting a cracked electricity pole as discernible from Annexures P-1 and P-3 to P-5. The petitioner duly submitted a detailed reply on 26.07.2019 (Annexure P-6) explaining the circumstances of his absence and the efforts undertaken. Notwithstanding this, a charge sheet was issued on 26.02.2020 (Annexures P-9 and P-10). The Inquiry Officer, after examining the facts, submitted a report on 11.01.2021 exonerating the petitioner and explicitly noting his approved leave and further recommended that the charge sheet be dropped and consigned (Annexure P-3). Despite this clear finding of innocence, the respondent/Corporation issued a warning letter to the petitioner on 16.04.2021 (Annexure P-22) without assigning any reasons for disregarding the inquiry report. Subsequently, the petitioner's appeal against the warning was dismissed on 18.12.2023 (Annexure P-26) without affording him an opportunity of hearing. Learned counsel for the petitioner further submits that the warning letter dated 16.04.2021 (Annexure P-22) has the potential to adversely affect the petitioner's prospects for promotion. In support of this submissions, reliance is placed on the Circular bearing Memo No.4099/4759 dated 09.09.2022, taken on record as 'Mark X', which clearly states that if a



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person receives three warning letters in five years, it is treated as a one step reduction in the Annual Confidential Report (ACR), no matter which year the warnings relate to. Learned counsel for the petitioner, lastly, submits that the issuance of warning letter to the petitioner, after being exonerating from the inquiry proceedings, is wholly illegal, arbitrary and in violation of the principles of natural justice.

Learned counsel for respondent/PSPCL, seeks a short accommodation to have complete instructions in the matter and file reply, if need be. Adjourned to 21.01.2026.

Reply, if any, be filed in the Registry of this Court at least one week before the next date of hearing with an advance copy to counsel opposite.

The Registry is directed to tag the Circular bearing Memo No.4099/4759 dated 09.09.2022, which is taken on record as 'Mark X', at appropriate place."

3. Learned counsel for the respondent-Corporation submits that the petitioner is not being punished and only a warning is issued, as such, no prejudice is being caused to the petitioner. He further submits that the petitioner has not challenged the instructions dated 09.09.2022 vide which the awarding of warning has been given the colour of punishment by providing that after three warning during the consideration zone of five years for promotions, ACR will be down graded by one point.

4. Having heard learned counsel for the parties and after perusal of the record, it transpires that the petitioner was exonerated by the Inquiry Officers as discernible from Annexure P-20. However, the Punishing Authority has not assigned any reasons for disagreeing with the findings of the inquiry report.



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5. Reliance in this regard has been correctly placed by the learned counsel for the petitioner on a Two Judge Bench of the Hon'ble Supreme Court in *Lav Nigam v. Chairman, MD., ITI Ltd. 2007(3) SCT 179*, which observed that,

“10. The conclusion of the High Court was contrary to the consistent view taken by this Court that in case the disciplinary authority differs with the view taken by the inquiry officer, he is bound to give a notice setting out his tentative conclusions to the appellant. It is only after hearing the appellant that the disciplinary authority would at all arrive at a final finding of guilt. Thereafter, the employee would again have to be served with a notice relating to the punishment proposed.

11. In Punjab National Bank v. Kunj Behari Misra, 1998(3) SCT 833 : AIR 1998 Supreme Court 2713 : (1998)7 SCC 84 a Bench of this Court considered Regulation 7(2) of the Punjab National Bank Officer Employees' (Discipline and Appeal) Regulations, 1977. The Regulation itself did not provide for the giving of any notice before the disciplinary authority differed with the view of the enquiry officer. This Court held at p. 818 of LLJ :

"19. The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7(2). As a result thereof, whenever the disciplinary authority disagrees with the enquiry authority on any article of charge, then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the enquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favourable conclusion of the enquiry officer. The



principles of natural justice, as we have already observed, require the authority which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer. "

12. This view has been reiterated in **Yoginath D. Bagde v. State of Maharashtra, 1999(4) SCT 403 : AIR 1999 Supreme Court 3734 : (1999)7 SCC 739**. In this case also Rule 9(2) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 did not specifically provide for a disciplinary authority to give an opportunity of hearing to the delinquent officer before differing with the view of the enquiring officer. The Court said :

"But the requirement of 'hearing' in consonance with the principles of natural justice even at that stage has to be read into Rule 9(2) and it has to be held that before the disciplinary authority finally disagrees with the findings of the enquiring authority, it would give an opportunity of hearing to the delinquent officer so that he may have the opportunity to indicate that the findings recorded by the enquiring authority do not suffer from any error and that there was no occasion to take a different view. The disciplinary authority, at the same time, has to communicate to the delinquent officer the 'tentative' reasons for disagreeing with the findings of the enquiring authority so that the delinquent officer may further indicate that the reasons on the basis of which the disciplinary authority proposes to disagree with the findings recorded by the enquiring authority are not germane and the finding of 'not guilty' already recorded by the enquiring authority was not liable to be interfered with."

(See also **State Bank of India v. K.P. Narayanan Kutty, 2003(3) SCT 743 : AIR 2003 Supreme Court 1100 : (2003)2 SCC 449**).



13. We have already quoted the extracts from the show-cause notice issued by the disciplinary authority. It is clear that no notice at all was given before the disciplinary authority recorded its final conclusions differing with the finding of fact of the inquiry officer. The notice to show cause was merely a showcause against the proposed punishment. In view of the long line of authorities, the decision of the High Court cannot be sustained. The appeal is accordingly allowed and the decision of the High Court is set aside."

6. Further still, in ***Raj Kishore Jha v. State of Bihar, (2003) 11 SCC 519***, the Hon'ble Apex Court crystallized the principle thus: "Reason is the heartbeat of every conclusion. Without the same it becomes lifeless." An order without reasons is anathema to a system of justice based on the rule of law.

7. Admittedly, in the operative part of the order passed by the Punishing authority, he has merely recorded the facts of the case without giving any reasons for the dissent from the finding of the inquiry officer which is against the settled principle. It is trite law that, whenever the Punishing authority disagrees with the report of the enquiry officer it must record its reasons for the dissent, as established in ***Punjab National Bank v. Kunj Behari Misra, 1998(3) SCT 833***.

8. Thus, it is settled that in case the Punishing authority dissents from the report submitted by the inquiry officer and decides against the interests of the delinquent officer, it must:-

- a. Record a detailed reasons for its dissent.
- b. Give a notice before punishment in terms of its conclusion to the charged employee.
- c. Give an opportunity of hearing to the charged employee.

9. In view of the above discussions, the present petition is allowed. Accordingly, the letter No.235/D-11675/T-2 dated 16.04.2021 (Annexure P-22), whereby, despite being exonerated in the enquiry report, the petitioner has been issued a Warning Letter, and a subsequent order dated 18.12.2023 (Annexure P-26), are hereby set aside.

(HARPREET SINGH BRAR)
JUDGE

21.01.2026
Neha

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