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2025:PHHC:175311-DB



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

Reserved on : 17.09.2025

Pronounced on : 16.12.2025

1. LPA-1995-2025 (O&M)

Dr. Gurdeep Singh through his LR

...Appellant

Vs.

State of Punjab and others

...Respondents

2. LPA-1996-2025 (O&M)

Dr. Gurdeep Singh through his LR

...Appellant

Vs.

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. R.D.Bawa, Advocate, Mr. Samuel Gill, Advocate and
Mr. Randhir Bawa, Advocate for the appellant.

Ms. Arundhati Kulshreshtha, AAG, Punjab.

DEEPAK MANCHANDA, J.
CM-4946-47-LPA-2025

These are applications seeking condonation of delay of 185 days
in filing the appeal.

For the reasons stated in the applications, same are allowed and
delay of 185 days in filing the appeals is condoned.

Main case

By this common order, the aforementioned two Letters Patent
Appeals, i.e. LPA-1995-2025 and LPA-1996-2025, shall stand disposed of,

where common facts are involved and the appellant has challenged the impugned judgment dated 06.11.2024 passed by the learned Single Judge, whereby the writ petitions preferred by the appellant were disposed of.

2. The brief facts emanating from the pleadings of both the appeals are that these intra-court appeals have been preferred by the legal heirs of the appellant (since deceased), who worked as a Senior Medical Officer with the Government of Punjab and was issued a charge-sheet for medical negligence, as while performing operation upon a patient, namely Mehar Singh, the appellant left a surgical instrument in the abdomen of the said patient, which was later removed by another private doctor through a surgery. It was further alleged that despite the transfer of the appellant from the Primary Health Centre, Ludhiana, he also retained the original case file of the said patient and manipulated/alterd the original record.

3. On these allegations, a departmental enquiry was conducted against the appellant (since deceased), wherein all the charges were proved, and vide order dated 13.08.1998 (Annexure P-14), the appellant (deceased) was imposed the punishment of reduction of his pay to the P.C.M.S. scale permanently. Simultaneously another order dated 30.11.1998 (Annexure P-15) was passed whereby he was disentitled from receiving enhanced subsistence allowance during the period of suspension. Further, vide order dated 12.08.2003 (Annexure P-6 in LPA-1996-2025), the claim of the appellant for step-up in pay-scale was rejected. Aggrieved by the said orders dated 13.08.1998, 30.11.1998 & 12.08.2003 the appellant filed CWP-19621-1998 and CWP No.13979-2003, which were dismissed by the learned Single Judge vide impugned judgment dated 06.11.2024, upholding the disciplinary

punishment. The present intra-court appeals have now been preferred by the legal heirs of the appellant (deceased) against the said impugned judgment dated 06.11.2024.

4. Learned counsel for the appellant (deceased) contends that the allegation of leaving a scissor-like instrument in the abdomen of the patient was concocted as part of a conspiracy by one Dr. R.P. Singhal and others, owing to personal rivalry and jealousy. It is contended that these persons, along with the patient Mehar Singh, were the main witnesses but were never produced for cross-examination during the departmental inquiry. He further contends that the statements recorded behind the back of the appellant (deceased) violated the principles of natural justice and that the X-ray films, which were relied upon, were undated, unnamed, and fabricated.

5. Learned counsel further argues that on 29.03.1995, the patient Mehar Singh underwent surgery only for obstructed hernia, where the abdomen was never opened by the appellant (deceased), therefore, no surgical instrument could have been left inside. It is also argued that a nurse confirmed that all instruments were counted before and after the surgery and no deficiency was noted. He submits that, even if some lapse had occurred, the punishment of permanent reduction in pay and denial of subsistence allowance was harsh, arbitrary, and unsustainable, and prays for setting aside the impugned judgment passed by the learned Single Judge.

6. In support of his contentions, learned counsel relied upon the judgments of the Hon'ble Supreme Court in *State of U.P. v. Mohammad Nooh, 1958 AIR (SC) 86; Ramana Dayaram Shetty v. International Airport Authority of India and others, 1979 AIR (SC) 1628; the judgment of the*

Madhya Pradesh High Court in Ramshakal Yadav v. Chief Security Officer, Railway Protection Force, Bombay V.T. and others, 1967 AIR (MP) 91; and the judgment of the Himachal Pradesh High Court in S.D. Bhardwaj v. Union of India and others, 1983 (1) SLR 32.

7. *Per contra*, learned State counsel submits that there was a serious misconduct on the part of the appellant (deceased), in as much as he removed official patient's record from the hospital and retained it without authority, indicating tampering with official documents. She justifies the punishment imposed upon the appellant (deceased) and further submits that even though certain witnesses did not depose in person, their earlier statements on record were sufficient to hold the appellant guilty. She contends that once the charges stood proved in the departmental proceedings, the appellant (deceased) was not entitled to benefits such as proficiency step-up and enhanced subsistence allowance. It is further argued that the scope of interference in the disciplinary matters is limited and that the punishment imposed, considering the nature of the misconduct, was proportionate and does not call for any interference by this Court.

8. We have heard learned counsels for the parties and have perused the material available on record.

9. A perusal of the impugned judgment would show that the learned Single Judge upheld the disciplinary punishment orders, where charges were proved against the appellant (deceased) in reference to illegally keeping an official medical record, as such a misconduct under-mined the credibility of the government doctor and justified the reduction of pay. Learned Single Judge further observed that the recovery proceedings against the appellant (deceased)

was also linked to the same disciplinary order, which does not require any interference especially when the penalty imposed and the punishment was upheld. The relevant extract of the findings recorded by the learned Single Judge vide impugned judgment reads as below:-

“9. Even if it is presumed for the sake of arguments that the petitioner could not appear before the preliminary enquiry but, the report including the statement of the doctor concerned who had operated upon the patient Mehar Singh subsequently to remove the surgical equipment from his abdomen as well as that of the patient Mehar Singh were brought on record of the enquiry as well as to the notice of the petitioner during the course of regular enquiry itself. The petitioner could have asked for the statement of those witnesses and he could have called them to join the proceedings but the petitioner chose not to call them. The statements of the patient with private doctor were put to the petitioner by way of the preliminary report which could not be rebutted by the petitioner in any manner. Therefore, the argument that the petitioner has been held guilty without there being any statement on the part of the patient concerned or the doctor who has removed the surgical equipment from the abdomen of the patient, is incorrect and the said argument cannot be taken into account so as to exonerate the petitioner from the allegations.

10. Further, the allegation in the departmental enquiry are to be proved on the basis of the probabilities. In the present case, sufficient evidence has already come on record to hold that no truth substantiate the findings given by the enquiry officer. Once sufficient evidence existed before the enquiry officer, the findings recorded by the enquiry officer cannot be looked into by this Court so as to reappraise the evidence in order to arrive at an another conclusion then the one arrived at by the enquiry officer. The argument of learned counsel for the petitioner that the findings recorded by the enquiry officer are perverse to the evidence, cannot be accepted as, enquiry officer has dealt with the evidence in a manner required to record his findings of guilt against the petitioner. It cannot be said that in the present case there is no evidence so as to give the benefit to the petitioner to exonerate him of the allegations.

11. Further, the enquiry report, which is being made the basis that the finding recorded therein are either perverse or are of no evidence, is not under challenge in the present petition as well. In the absence of any challenge to the enquiry report, which has been relied upon by the punishing authority to impose the punishment, the punishment which is

the consequence of the findings recorded by the enquiry officer which has not been challenged, no relief can be granted to the petitioner.

12. Not only this, further there is another allegation against the petitioner in the charge-sheet of withholding the medical record of Mehar Singh in his possession without there being any authority to do so. Even after the transfer of the petitioner from the Primary Health Centre, Gurusar Sudhar, Ludhiana, the petitioner took away the said record pertaining to the patient Mehar Singh from the hospital so as to retain it with him. There is a proved allegation that the said record was also altered. Once, the said allegation, when put to the learned counsel for the petitioner during the hearing of the present case, has not been rebutted, the said allegation of tempering with record by removing the same from the hospital was itself enough to record the punishment, which has been imposed upon the petitioner. Removing away the official record by the petitioner and keeping the same in his possession and that too without there being any valid authority, the punishing authority was very well within its jurisdiction to presume that in case the petitioner had done no wrong while performing the surgery upon patient Mehar Singh, why the record was removed by him from the hospital and kept in his possession so as to alter the same. The said allegation is also very serious on the part of the doctor, who was facing an allegation that he was negligent in performing a surgery upon the patient namely Mehar Singh.

13. Keeping in view the facts mentioned hereinbefore, even if, it is assumed for the sake of argument, though not accepted, that the patient never appeared in the regular enquiry to support the allegation though their statements were very much before the enquiry officer but the second charge of removing the official record from the hospital and keeping the same within his own custody without there being any valid authorization and to tamper with the same, is good enough to support the ultimate punishment imposed upon the petitioner. Hence, keeping in view the facts as mentioned hereinbefore, no ground is made out for any interference by this Court qua the punishment imposed vide order dated 13.08.1998 (Annexure P-14).”

10. Through Civil Writ petition, the appellant (deceased) assailed the order of punishment which had been imposed upon him for being negligent in performing his professional duties as doctor while examining and conducting patient's surgery. The allegations were made that while performing the surgery upon said the patient, the appellant (deceased) left his surgical equipment in the

abdomen, which was later removed by private doctor after the patient complained of pain in the abdomen. Learned Single Judge has observed that a preliminary inquiry was conducted by the department, wherein the patient appeared and supported the version that he was operated by the appellant, who was negligent while performing his duties. Learned Single Judge observed that the appellant (deceased) chose to abstain himself from appearing before the Enquiry officer, who conducted the preliminary inquiry.

11. Learned Single Judge has noticed the appellant's contention that he had been held guilty without there being any statement on the part of the patient concerned or the doctor, who had removed the surgical equipment from the abdomen of the said patient was incorrect. On the contrary, it has been observed that the report including the statements of the patient-Mehar Singh as well as of the doctor concerned, who operated upon the patient subsequently and removed the surgical equipment from his abdomen were brought on record during the inquiry and as well as to the notice of the appellant during the course of regular inquiry itself.

12. Learned Single Judge also specifically noted that once sufficient evidence existed before the Enquiry officer, the findings recorded by the Enquiry Officer cannot be looked into by the Court so as to re-appreciate the evidence in order to arrive at a different conclusion than the one arrived at by the Enquiry Officer and rejected the plea of the appellant (deceased) that there is no evidence against him. It has also been observed by learned Single Judge that the findings recorded by the Enquiry Officer were not challenged and in the absence of the same, the appellant was not entitled to any relief.

13. We cannot lose sight to the fact that the second allegation, which

was levelled against the appellant (deceased) was about withholding the medical record of patient Mehar Singh without there being any authority to do so, wherein otherwise the allegation of tampering was also proved which was sufficient to record the punishment and in such a case, it can be easily presumed that removing away the official record by the appellant (deceased) and keeping the same in his possession without there being any valid authority seems to be unjustified. Learned Single Judge observed that such serious allegations cannot be pardoned with. Further the punishment order dated 13.08.1998 was never challenged by way of appeal, rather the same has been challenged through the writ petition.

14. In reference to the observations made by learned Single Judge, we have examined the entire material available on record. The perusal of Annexure P-13 annexed with the petition shows that the inquiry was conducted against the appellant wherein a representation was sent by the appellant to the Secretary Health, Health and Family Welfare, Punjab Chandigarh admitting therein about his absence during the inquiry which was held by Dr.Suresh Gupta. The relevant extract of the same is reproduced below:-

“Preliminary inquiry was held by Dr.Suresh Gupta the then DIO Ludhiana on 29.11.95. I could not join the inquiry as I was bed ridden due to second operation on my right leg. I informed in Civil Surgeon vide letter dated 02.02.96. There was great pressure on officials of the deptt. Even the then Civil Surgeon Dr.P.K.Narang was charge sheeted in this case. Everybody got panicky. Everyone tried to save his own skin. Things turned against me. The then Civil Surgeon to the inquiry in his own hand on 22.02.96 in a letter to DHS he recommended my suspension without doing inquiry on the ground that I could not join inquiry. I had earlier informed about my inability to join the

inquiry in letter dated 20.02.1998.”

15. Even as per the written statement on behalf of respondent Nos.1 to 3, the stand of respondent-department by referring para No.13 of the said written statement is that the appellant (deceased) was found guilty and his guilt was proved on the basis of report of Dr.R.P.Singhal of Kundan Lal Hospital, Ahmedgarh, (Sangrur) (Annexure R-1), according to which artery forceps was removed from abdominal cavity of the patient Mehar Singh. Further, Civil Surgeon, Ludhiana in his report also opined that out of two operations, only first one could have resulted in the retention of a surgical instrument in abdominal cavity. The contents of the said Annexure R-1 are also reproduced hereunder:-

“Certified that S.Mehar Singh, 66 years M.from V.P.O.Chhappar Distt.Ludhiana was admitted in Dr.Kundan Lal Hospital vide Indoor No.222, dated 5.7.93.

Laparotomy was done and removed Artery forceps from abdominal cavity on 5.7.95.

Discharged on 18.7.95 in satisfactory condition.”

16. Thereafter, the appellant (deceased) filed replication dated 16.10.2003 stating therein that the said Annexure R-1 was neither produced during the preliminary inquiry and nor at the time of regular inquiry. The perusal of the entire material available on record including the impugned judgment reveals that the learned Single Judge dismissed the writ petition on one of the counts that since the appellant did not appear to face the inquiry, as clearly mentioned in the representations dated 07.07.1997 and 25.04.1998, later on taking the stand in the replication by controverting Annexure R-1 makes no sense and the same does not help the appellant to avoid the punishment.

Further perusal of the impugned judgment and the record shows that the learned Single Judge seriously took a note of unauthorized custody of the official record by removing the same from the hospital and further tampering it, which was good enough to support the ultimate punishment imposed upon the appellant, and the same was never challenged by producing any material on record.

17. We agree with the observations made by learned Single Judge that such an act of the appellant, who being a doctor was part of the noble profession itself proves allegations against the appellant (deceased), and could have been avoided if appellant was not guilty of any misconduct. The possession of unauthorized record and tampering with the same ultimately created suspicion against the act and conduct of the appellant (deceased). The judgments relied upon by learned counsel for the appellant have also been examined by this Court, and the same do not extend much help for the rescue of the appellant (deceased).

18. Further, as referred in the impugned judgment, the appellant (deceased) filed a CWP-13979-2003 challenging the non-grant of proficiency step-up which was not extended to the appellant on the ground that he was facing a departmental inquiry, wherein he was held guilty and punishment was imposed. Learned Single Judge did not interfere in the same with the observation that once the departmental proceedings were pending against the appellant, he was not entitled for the proficiency step up; against which the LPA-1996-2025 has been filed. We are of the same view and agree with the observations made by learned Single Judge in reference to non-grant of proficiency step up which also does not warrant any interference by this Court.

19. Given the above discussion, we believe that the learned Single Judge rightly dismissed the writ petition preferred by the appellant and the same does not contain any perversity or error.

20. Consequently, both the above-mentioned Letters Patent Appeals stand dismissed. All pending miscellaneous application(s) shall also stand disposed of.

(DEEPAK MANCHANDA)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

16.12.2025
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Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No