2025:PHHC:175512

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

CWP-1301-2022

1. Kanwaljit Singh

.....Petitioner

VERSUS

Shiromani Gurudwara Parbhandhak Committee

.....Respondent

CWP-17734-2020

2. Sohan Singh

.....Petitioner

VERSUS

Shiromani Gurdwara Parbandhak Committee

.....Respondent

CWP-2952-2021

3. Sukhdev Singh

.....Petitioner

VERSUS

Shiromani Gurdwara Parbandhak Committee

.....Respondent

CWP-11503-2022

4. Gurbachan Singh

.....Petitioner

VERSUS

Shiromani Gurudwara Parbandhak Committee and another

.....Respondents

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CWP-15262-2022

5. Baj Singh

.....Petitioner

VERSUS

Shiromani Gurudwara Parbandhak Committee and another

.....Respondents

CWP-2261-2022

6. Gurmukh Singh

.....Petitioner

VERSUS

Shiromani Gurudwara Parbandhak Committee and another

.....Respondents

CWP-4242-2023

7. Satinder Singh

.....Petitioner

VERSUS

Shiromani Gurdwara Parbandhak Committee

.....Respondent

CWP-4327-2023

8. Parmdip Singh

.....Petitioner

VERSUS

Shiromani Gurudwara Parbhandhak Committee and another

.....Respondents

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2025:PHHC:175512

CWP-4924-2011

9. Jagtar Singh and others

.....Petitioners

VERSUS

Shiromani Gurdwara Parbandhak Committee and others

.....Respondents

CWP-4991-2023

10. Jujhar Singh

.....Petitioner

VERSUS

Shiromani Gurudwara Parbandhak Committee and another

.....Respondents

CWP-6725-2023

11. Dalbir Singh

.....Petitioner

VERSUS

Shiromani Gurudwara Parbandhak Committee and another

.....Respondents

CWP-32379-2025

12. Manjit Singh

.....Petitioner

VERSUS

Shiromani Gurdwara Parbandhak Committee and another

.....Respondents

Reserved on:-18.11.2025
Pronounced on: 17.12.2025
Uploaded on: 1 .12.2025

Whether only the operative part of the judgment is pronounced? NO
Whether full judgment is pronounced? YES

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CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Arun Singla, Advocate for the petitioner in CWP-1301-2022.

Mr. P.S. Guliani and Mr. B.S. Guliani, Advocates for petitioner(s) in CWP-4242-2023 and 32379-2025.

Mr. Prateek Sodhi, Advocate for petitioner(s) in CWP-2261, 15262 and 11503 of 2022.

Ms. Vanita Sapra Kataria, Advocate
for petitioner(s) in CWP-4924-2011 & CWP-4991-2023, CWP-2952-2021 and 17734-2020.

Mr. D.S Patwalia, Sr. Advocate with Mr. Tajeshwar Singh, Dr. Puneet Kaur Sekhon, Sullar Mr. M.S. Virk, Mr. Mrigank Sharma and Mr. Sehaj Navjeet Singh Advocate for respondent(s)-SGPC in CWP-17734-2020, 2952-2021, 1301-2022, 2261-2022, 4991-2023, 11503, 15262-2022, 4327-2023 & 6725-2023.

****

HARPREET SINGH BRAR, J. (Oral)

1. This common judgment shall dispose of all the above-mentioned writ petitions as they arise from a similar factual matrix. However, for the sake of brevity, the facts are taken from CWP-1301-2022.

2. The present petition is preferred under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing of speaking order dated 15.11.2021 (Annexure P-6). A further prayer is made for the issuance of a writ in the nature of *mandamus* directing the respondent to release the retiral benefits accrued to the petitioner, including leave encashment, gratuity, provident fund, w.e.f. the date of his superannuation i.e. 31.05.2020, with an interest at the rate of 18% p.a.

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FACTUAL BACKGROUND

3. The petitioner was appointed as a Sewadar with respondent-SGPC on 22.09.1982. During his service, the petitioner was promoted to the post of Clerk and thereafter Assistant. He ultimately retired from service on 31.05.2020 as Assistant/Supervisor. Allegedly, prior to retirement of the petitioner, in order to ensure smooth transition the record of the Holy Saroops of Shri Guru Granth Sahib in the publication department of respondent-SGPC was checked and it was discovered that they are short by 328. Consequently, a Sub-Committee was formed to investigate into this incident which submitted its report (Annexure R-1). Meanwhile, the retiral dues of the petitioner were withheld, hence the present petition.

CONTENTIONS

4. Learned counsel for the petitioner contended that on 04.05.2020, the petitioner wrote letters to the respondent-SGPC regarding timely disbursement of his retiral dues as he was due to retire on 31.05.2020. In spite of this, the retiral benefits were not released to him, causing him to serve a legal notice dated 06.09.2021 to the respondent. However, no decision was taken on the said legal notice. Thereafter, the petitioner approached this Court by means of CWP-20928-2021, which was disposed of vide order dated 12.10.2021, with a direction to the respondent to consider the legal notice dated 06.09.2021 as a representation and decide the same within a period of one month. Thus, the respondent-SGPC passed the

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impugned order dated 15.11.2021 (Annexure P-6) stating that the inquiry should be allowed to conclude. Learned counsel submitted that neither the impugned order dated 15.11.2021 (Annexure P-6) nor the reply dated 08.10.2021 (Annexure P-5) of the respondent to the legal notice indicated initiation of any disciplinary proceeding against the petitioner or serving of any show cause upon him. Further, retiral dues cannot be withheld on the premise of a pending inquiry. The act and conduct of the respondent has caused severe financial hardship to the petitioner.

5. *Per contra,* learned Senior counsel for the respondent-SGPC contended that a writ petition under Articles 226/227 of the Constitution of India is not maintainable against respondent-SGPC. He submitted that there is no dispute that SGPC is a public authority performing public functions. However, the Service Rules do not find their origin in any Act of the legislature or exercise of the executive powers of the Board. Even though the title uses the term 'Rules,' they merely provide for an in-house procedure day to day administrative and executive functions. Relying upon the judgments rendered by the Hon'ble Supreme Court in ***St. Mary's Education Society and another vs. Rajendra Prasad Bhargava and others (2023) 4 SCC 498*** and ***Army Welfare Education Society New Delhi vs. Sunil Kumar Sharma and others 2024 SCC OnLine SC 1683,*** learned Senior counsel further argued that that while SGPC is a public authority, its relationship with its employees is private in nature. The issue in the present case pertains to destruction and mismanagement of Holy Saroops of Guru

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Granth Sahib Ji, which indicates no element of public law. Moreover, services rendered by individual employees of SGPC are not an inseparable part of the public duties, thus, it would be improper to invoke Article 226 of the Constitution for rectification of private wrongs.

6. Furthermore, as far as Rule-making powers bestowed by the Sikh Gurudwaras Act, 1925 are concerned, three provisions must be mentioned i.e. Sections 69, 132 and 139. It may be noted that Section 69 does not explicitly state that Rules can be formulated to govern service of the employees, Section 132 provides the power to make by-laws with respect to procedure and fees while Section 139 talks about regulation making powers with respect to authorizing one to receive money on behalf of the SGPC and prescribing format of maintaining records. It is trite law that the statutory provisions must be read in context of what is specified therein and nothing provided in the Sikh Gurudwaras Act, 1925 provides for any power that would allow it to formulate Rules to govern the service of its employees. Additionally, learned Senior counsel referred to the judgment rendered by the Hon'ble Supreme Court in ***Mewa Singh and others vs. Shiromani Gurdwara Prabandhak Committee, 1999(1) S.C.T. 282*** and submitted that the Service Rules have been characterized as statutory in nature, without indicating any source in the statute to support their formulation and provide them with the force of law.

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7. He further submitted that on 18.08.2015, the petitioner and other officials conducted physical verification of Holy Saroops and reported an excess of 239. However, according to the ledgers, 328 Holy Saroops were found short. It was concluded that the missing Holy Saroops were given to outside Sangat and neither were any bills issued in this regard nor were the *bheta* (price) received deposited with the Trust. Furthermore, the petitioner reported that 80 Holy Saroops were damaged due to the electric short-circuit that occurred on 19.05.2016. However, the eye witnesses and other officers had reported that 14 Holy Saroops were damaged.

8. Moreover, a proper inquiry was held in this regard which now stands concluded. The petitioner also participated in the inquiry by recording statements and signed the documents as required. Moreover, the petitioner was called to join the inquiry multiple times by issuing letters on the available addresses but his conduct revealed his unwillingness to participate. The Sub-Committee filed its report (Annexure R-1) finding the petitioner guilty, being the Assistant Supervisor who is duty bound to maintain ledgers. It recommended dismissal of the petitioner from service w.e.f the date of his suspension, after deducting the due *bheta* for the Holy Saroops from his service benefits as well as withholding of the payment of the balance with respect to his service benefits on a permanent basis. Thereafter, the Executive Committee vide resolution No.117 dated 12.12.2022 (Annexure R-2) accepted the recommendations of the Sub-Committee.

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9. In rebuttal, learned counsel for the petitioner(s) submitted that the question of maintainability does not arise as the SGPC is a statutory body. An inquiry into the nature of duties performed by an entity only needs to be ventured into when the said entity is a private body. Moreover, once the Hon'ble Supreme Court has considered the Service Rules to be statutory in nature in ***Mewa Singh(supra),*** the matter falls beyond the purview of this Court.

OBSERVATIONS AND ANALYSIS

10. Having heard learned counsel for the parties and after perusing the record with their able assistance, it appears that the following questions arise for adjudication before this Court:-

> *(i) Whether a petition under Articles 226/227 of the Constitution of India is maintainable against the respondent-SGPC?*
>
> *(ii) Whether the suspension/termination of the respective petitioner(s) deserves to be set aside for want of strict compliance with the Service Rules?*

(i) Maintainability

11. The primary objection raised regarding the maintainability of the present writ petition against the respondent-Shiromani Gurdwara Parbandhak Committee (SGPC) essentially boils down to a singular, pivotal question: whether the Service Rules framed by the SGPC are statutory in nature. Learned Senior counsel for the respondent has vehemently

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contended that the writ petition is not maintainable, arguing that the Rules governing the service of the petitioner are not statutory in character. It is their contention that the power to frame such rules cannot be explicitly traced to the provisions of the Sikh Gurdwaras Act, 1925, and consequently, the relationship between the SGPC and its employees lies purely within the realm of private contract.

12. For proper adjudication upon this subject, a study of Section 69 the Sikh Gurdwaras Act, 1925 is warranted. The same is reproduced below:

> *"**69. Servants of the Board, their appointment and punishment. –***
>
> *The Executive Committee of the Board may appoint such servants as it may deem to be necessary for the due performance by itself of its duties, **and may from time to time determine the number, designations, grades and scales of salary, or other remuneration of such servants, and may at any time fine, reduce, suspend or remove any servant.**"*

(emphasis supplied)

A plain reading of the aforesaid provision clarifies that the Executive Committee is expressly empowered to '*determine'* the conditions of service, including designations, grades, and removal of servants. Thus, it can be reasonably inferred that the respondent-SGPC, through its Executive Committee, has been bestowed with the statutory power to frame Rules to govern the service of its employees.

13. Moreover, this perspective has also been upheld by a two-Judge Bench of the Hon'ble Supreme Court in ***Mewa Singh (supra),*** where the

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legal status of the Service Rules was assessed. Speaking through Justice D.P Wadhwa, the following was opined:

> *"5.* ***A mere reading of various provisions of the Act and Rules set out above unmistakably show that SGPC is a creation of the statute and Service Rules framed by it in exercise of its statutory power have force of law. Any violation of the provision of the Act and the Rules will certainly make SGPC amenable to writ jurisdiction of the High Court under Article 226 of the Constitution. We do not find any basis for the SGPC to contend that no writ can be issued against it even if its action is contrary to the provision of law and the Rules framed thereunder. SGPC is a creation of the statute. It has to act within the four corners of the law constituting it and the rules framed by it under the powers conferred upon it under the Act. We do not think any discussion is needed to dispel this argument by the SGPC that it is immune from the writ jurisdiction of the High Court.*** *Language of Article 226 does not admit of any limitation on the powers of the High Court for the exercise of its jurisdiction thereunder. Subba Rao, J. in Dwarkanath v. ITO, 1965(3) SCR 536 said that Article 226 "is couched in comprehensive phraseology and it ex facie confers a wide power on the High Court to reach injustice wherever it is found. The Constitution designedly used a wide language in describing the nature of the power, the purpose for which and the person or authority against whom it can be exercised."* (emphasis supplied)

This position has been further reinforced by the judgment rendered by a two-Judge Bench the Hon'ble Supreme Court in ***Diljit Singh Bedi vs. Shiromani Gurudwara Prabhandhak Committee 2011(2) SCT 795***, wherein, speaking through Justice A.K. Patnaik, the following was held:

> *"9.* ***The Executive Committee of the SGPC has in exercise of its powers under the Act framed the Service Rules for the employees of the SGPC prescribing their service conditions which include their appointment and removal from service****. Rule 4 of the Service Rules, which relates to dismissal from service, is quoted in Mewa Singh and others v. Shiromani Gurdwara Prabandhak Committee, 1999(1) S.C.T. 282 : (1999) 2 SCC 60 at page 64 and is reproduced*

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hereinbelow…"
(emphasis supplied)

14. Further, in ***St. Mary's Education Society (supra),*** a two-Judge bench of the Hon'ble Supreme Court has emphasized that while a writ petition under Article 226 of the Constitution is maintainable against an individual or a body performing public functions, it is also pertinent that the specific act challenged by means of the writ petition has a direct nexus with the discharge of the said public function. It was further observed that unless the employment is governed by statutory rules, the relationship between an employer and its employees cannot be deemed to have a public nature. Speaking through Justice J.B. Pardiwala, the following was held:

"68. We may sum up our final conclusions as under:-

(a) An application under Article 226 of the Constitution is maintainable against a person or a body discharging public duties or public functions. ***The public duty cast may be either statutory or otherwise and where it is otherwise, the body or the person must be shown to owe that duty or obligation to the public involving the public law element.*** *Similarly, for ascertaining the discharge of public function, it must be established that the body or the person was seeking to achieve the same for the collective benefit of the public or a section of it and the authority to do so must be accepted by the public.*

(b) Even if it be assumed that an educational institution is imparting public duty, ***the act complained of must have a direct nexus with the discharge of public duty.*** *It is indisputably a public law action which confers a right upon the aggrieved to invoke the extraordinary writ jurisdiction under Article 226 for a prerogative writ. Individual wrongs or breach of mutual contracts without having any public element as its integral part cannot be rectified through a writ petition under Article 226.* ***Wherever Courts have intervened in their exercise of jurisdiction under Article 226, either the service conditions were regulated by the statutory provisions or the employer had the status***

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of "State" within the expansive definition under Article 12 or it was found that the action complained of has public law element.

(c) ***It must be consequently held that while a body may be discharging a public function or performing a public duty and thus its actions becoming amenable to judicial review by a Constitutional Court, its employees would not have the right to invoke the powers of the High Court conferred by Article 226 in respect of matter relating to service where they are not governed or controlled by the statutory provisions****. An educational institution may perform myriad functions touching various facets of public life and in the societal sphere. While such of those functions as would fall within the domain of a "public function" or "public duty" be undisputedly open to challenge and scrutiny under Article 226 of the Constitution, the actions or decisions taken solely within the confines of an ordinary contract of service, having no statutory force or backing, cannot be recognised as being amenable to challenge under Article 226 of the Constitution.* ***In the absence of the service conditions being controlled or governed by statutory provisions, the matter would remain in the realm of an ordinary contract of service.***

(d) Even if it be perceived that imparting education by private unaided the school is a public duty within the expanded expression of the term, an employee of a nonteaching staff engaged by the school for the purpose of its administration or internal management is only an agency created by it. It is immaterial whether "A" or "B" is employed by school to discharge that duty. In any case, the terms of employment of contract between a school and nonteaching staff cannot and should not be construed to be an inseparable part of the obligation to impart education. This is particularly in respect to the disciplinary proceedings that may be initiated against a particular employee. It is only where the removal of an employee of nonteaching staff is regulated by some statutory provisions, its violation by the employer in contravention of law may be interfered by the court. But such interference will be on the ground of breach of law and not on the basis of interference in discharge of public duty.

(e) From the pleadings in the original writ petition, it is apparent that no element of any public law is agitated or otherwise made out. ***In other words, the action challenged has no public element and writ of mandamus cannot be issued as the action was essentially of a private character.****"*

(emphasis supplied)

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15. The above-quoted findings were also upheld in ***Army Welfare Education Society (supra)***, and most recently, by a three-Judge Bench of the Hon'ble Supreme Court in ***Dileep Kumar Pandey vs. Union of India, 2025 INSC 749***. However, the ratio culled out in the said judgments supports the cause of the petitioner than negate it as they reiterate that existence of statutory service rules would make the employer amenable to writ jurisdiction under Article 226 of the Consititution. Since the Hon'ble Supreme Court in ***Mewa Singh (supra)*** and ***Diljit Singh Bedi (supra)*** has already declared that the Service Rules of the SGPC are statutory in nature, the present case falls squarely within the exception carved out in ***St. Mary's Education Society (supra)***. The petitioner(s) in the present case are governed by statutory rules, and thus, the dispute does not remain in the realm of a private contract.

(ii) <u>Strict Compliance of the Service Rules</u>

16. Rule 4 of the Service Rules calls for serving a chargesheet upon the delinquent employee, receiving his reply and conducting an inquiry, if necessary. The overarching goal of the said procedure is clearly to ensure that the delinquent employee is not left wanting for information with respect to the disciplinary proceedings initiated against him, which essentially amounts to honouring the principles of natural justice. Thus, the primary consideration must be to ensure that the procedure is substantially complied with and no prejudice is caused the delinquent employee.

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17. For ready reference, Rule 4 of the Service Rules is reproduced below:

> ***"(4) TERMINATION (MAUKUFI)***
>
> ***(A)*** *The employees can be dismissed only by his appointing authority as per the following rules, but an appeal against the termination made by the President can be filed before the Executive Committee within a period of thirty days from the date of termination.*
>
> ***(B)*** *In case of any punishment (suspension, termination, fine, warning etc.) given to the employees of Gurdwaras and all the departments under the charge of Shiromani Gurdwara Prabandhak Committee, the concerned employee can file an appeal against the same within 30 days from the date of passing of order against him.*
>
> > ***(1)*** *Any employee of Shiromani committee can be terminated, degraded or removed due to his misconduct, malafide intention, taking liquor or falling in bad vices, but before his termination, degradation or removal he would be served with the charges leveled against him in writing in the form of charge-sheet duly appended by one Statement ofcharges, on the basis of which the charge-sheet has been framed against him, shall also be supplied. The reply to such charges shall also be taken from the employees within stipulated period and if he refuses to admit the charges or seeks enquiry in that regard or the executive committee deems it proper then the enquiry into the said charges will be got conducted in the presence of employee and on every item of charge-sheet, which he denies, in that regard the evidence shall be taken in that regard in his presence and the employee will also be permitted to cross-examine the witnesses. If the employee wants to lead his defence evidence, then the same will also be considered for some reasons, which would be necessary to bring into notice in writing. If the inquiry committee deems it proper that there is no need for any particular defence evidence, then no permission will be given to lead the same. On proving the charge, action will be taken against the employee. There will be no need to adopt the abovesaid method in case of temporary or under probation*

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employees, they can be removed by the committee whenever it desires to do so.

(2) *If the employee wants to present any official record or any document etc. in his defence then he will be permitted to do so and if the copies of the same is required by the employee then the same will be provided to him without any objection and he will also be permitted to inspect the concerned record free of cost.*

(3) *Every such employee who has been terminated or degraded or removed, the of executive copies of final order committee and the inquiry committee reports in that regard shall be provided to him free of cost.*

(4) (a) *removal record against the employees shall not be destroyed for three years; rather it will be kept under safe custody. The termination, degradation or*

(b) *The employee who after his suspension by holding innocent without any punishment is reinstated in service, he shall be entitled for remaining salary of suspension period.*

(5) *The Gurdwara Committee at the time of termination or removal of any of its employee, would send the information of the same to Shiromani Gurdwara Prabandhak Committee and the employee dismissed by Shiromani Committee or any Gurdwara committee, be not engaged by any other committee without the permission of committee who has removed him and no work be got from him, but in special circumstances, such person can be recruited as employee in other committee with the permission of Shiromani committee. But in the inquiry of Shiromani committee, if it is proved that such person is accused of embezzlement, dishonesty or immorality, then the Shiromani Gurdwara Prabandhak Committee shall not permit to engage such person."*

18. A two-Judge bench of the Hon'ble Supreme Court in ***State Bank of Patiala vs. S.K. Sharma (1996) 3 SCC 364***, speaking through Justice B.P. Jeevan Reddy, opined as follows in this regard:

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"12. It would be appropriate to pause here and clarify a doubt which one may entertain with respect to the principles aforestated. ***The several procedural provisions governing the disciplinary enquiries [whether provided by rules made under the proviso to Article 309 of the Constitution, under regulations made by statutory bodies in exercise of the power conferred by a statute or for that matter, by way of a statute] are nothing but elaboration of the principles of natural justice and their several facets.*** *It is a case of codification of the several facets of rule of audi alteram partem or the rule against bias. One may ask, if a decision arrived at in violation of principles of natural justice is void, how come a decision arrived at in violation of rules/regulations/statutory provisions incorporating the said rules can be said to be not void in certain situations. It is this doubt which needs a clarification - which in turn calls for a discussion of the question whether a decision arrived at in violation of any and every facet of principles of natural justice is void.*

xxx xxx xxx

34. We may summarise the principles emerging from the above discussion. [These are by no means intended to be exhaustive and are evolved keeping in view the context of disciplinary enquiries and orders of punishment imposed by an employer upon the employee]:

(1) An order passed imposing a punishment on an employee consequent upon a disciplinary/departmental enquiry in violation of the rules/regulations/statutory provisions governing such enquiries ***should not be set aside automatically****. The Court or the Tribunal should enquire* ***whether (a) the provision violated is of a substantive nature, or (b) whether it is procedural in character****.*

(2) A substantive provision has normally to be complied with as explained hereinbefore and the theory of substantial compliance or the test of prejudice would not be applicable in such a case.

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(3) In the case of violation of a procedural provision, the position is this: ***procedural provisions are generally meant for affording a reasonable and adequate opportunity to the delinquent officer/employee. They are, generally speaking, conceived in his interest. Violation of any and every procedural provision cannot be said to automatically vitiate the enquiry held or order passed. Except cases falling under 'no notice', 'no opportunity' and 'no hearing' categories, the complaint of violation of procedural provision should be examined from the point of view of prejudice, viz., whether such violation has prejudiced the delinquent officer/employee in defending himself properly and effectively****. If it is found that he has been so prejudiced, appropriate orders have to be made to repair and remedy the prejudice including setting aside the enquiry and/or the order of punishment. If no prejudice is established to have resulted therefrom, it is obvious, no interference is called for. In this connection, it may be remembered that there may be certain procedural provisions which are of a fundamental character, whose violation is by itself proof of prejudice. The Court may not insist on proof of prejudice in such cases. As explained in the body of the judgment, take a case where there is a provision expressly providing that after the evidence of the employer/government is over, the employee shall be given an opportunity to lead defence in his evidence, and in a given case, the enquiry officer does not give that opportunity in spite of the delinquent officer/employee asking for it. The prejudice is self-evident. No proof of prejudice as such need be called for in such a case. To repeat, the test is one of prejudice, i.e., whether the person has received a fair hearing considering all things. Now, this very aspect can also be looked at from the point of view of directory and mandatory provisions, if one is so inclined. The principle stated under (4) hereinbelow is only another way of looking*

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at the same aspect as is dealt with herein and not a different or distinct principle.

(4)(a) In the case of a procedural provision which is not of a mandatory character, the complaint of violation has to be examined from the standpoint of substantial compliance. Be that as it may, the order passed in violation of such a provision can be set aside only where such violation has occasioned prejudice to the delinquent employee.

(b) In the case of violation of a procedural provision, which is of a mandatory character, it has to be ascertained whether the provision is conceived in the interest of the person proceeded against or in public interest. If it is found to be the former, then it must be seen whether the delinquent officer has waived the said requirement, either expressly or by his conduct. If he is found to have waived it, then the order of punishment cannot be set aside on the ground of said violation. If, on the other hand, it is found that the delinquent officer/employee has not waived it or that the provision could not be waived by him, then the Court or Tribunal should make appropriate directions [include the setting aside of the order of punishment], keeping in mind the approach adopted by the Constitution Bench in B. Karunakar. ***The ultimate test is always the same viz., test of prejudice or the test of fair hearing, as it may be called.***

(5) Where the enquiry is not governed by any rules/regulations/statutory provisions and the only obligation is to observe the principles of natural justice or, for that matter, wherever such principles are held to be implied by the very nature and impact of the order/action the Court or the Tribunal should make a distinction between a total violation of natural justice [rule of audi alteram partem] and violation of a facet of the said rule, as explained in the body of the judgment. In other words, a distinction must be

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made between "no opportunity" and no adequate opportunity, i.e., between "no notice"/"no hearing" and "no fair hearing".

(a) In the case of former, the order passed would undoubtedly be invalid [one may call it "void" or nullity if one chooses to]. In such cases, normally, liberty will be reserved for the Authority to take proceedings afresh according to law, i.e., in accordance with the said rule audi alteram partem.

(b) But in the latter case, the effect of violation [of a facet of the rule of audi alteram partem] has to be examined from the standpoint of prejudice; in other words, what the Court or Tribunal has to see is whether in the totality of the circumstances, the delinquent officer/employee did or did not have a fair hearing and the orders to be made shall depend upon the answer to the said query. It is made clear that this principle No. 5 does not apply in the case of rule against bias, the test in which behalf are laid down elsewhere.

(6) While applying the rule of audi alteram partem [the primary principle of natural justice] the Court/Tribunal/Authority must always bear in mind the ultimate and over-riding objective underlying the said rule, viz., to ensure a fair hearing and to ensure that there is no failure of justice. It is this objective which should guide them in applying the rule to varying situations that arise before them.

(7) There may be situations where the interests of state or public interest may call for a curtailing of the rule of audi alteram partem. In such situations, the Court may have to balance public/State interest with the requirement of natural justice and arrive at an appropriate decision."

(emphasis added)

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Furthermore, a three-Judge bench of the Hon'ble Supreme Court in ***K.L. Tripathi vs. State Bank of India (1984) 1 SCC 43,*** while highlighting the importance of fairplay in administrative, judicial and quasi-judicial actions opined that it must be seen whether any deviation from principles of natural justice has caused any prejudice. Speaking through Justice Sabyasachi Mukharji, the following was held:

> *"41.* ***It is true that all actions against a party which involve penal or adverse consequences must be in accordance with the principles of natural justice but whether any particular principle of natural justice would be applicable to a particular situation or the question whether there has been any infraction of the application of that principle, has to be judged, in the light of facts and circumstances of each particular case. The basic requirement is that there must be fair play in action and the decision must be arrived at in a just and objective manner with regard to the relevance of the materials and reasons.*** *We must reiterate again that the rules of natural justice are flexible and cannot be put on any rigid formula. In order to sustain a complaint of violation of principles of natural justice on the ground of absence of opportunity of cross-examination, it has to be established that prejudice has been caused to the appellant by the procedure followed. See in this connection the observations of this Court in the case of* ***Jankinath Sarangi v. State of Orissa, (1969)3 SCC 392****. Hidayatullah, C.J., observed there at page 394 of the report "there is no doubt that if the principles of natural justice are violated and there is a gross case this Court would interfere by striking down the order of dismissal; but there are cases and cases.* ***We have to look to what actual prejudice has been caused to a person by the supposed denial to him of a particular right.****" Judged by this principle, in the background of the facts and circumstances mentioned before, we are of the opinion that there has been no real prejudice caused by infraction of any particular rule of natural justice of which appellant before us complained in this case. See in this connection observations of this Court in the case of* ***Union of India & Anr. v. P.K. Roy & Ors, 1968 S.L.R. 104 : (1968)2 SCR 186****, where this Court reiterated that "the doctrine of natural justice cannot be imprisoned within the strait-jacket of a rigid formula and its application depends upon the nature of the 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 a*

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particular case". See also in this connection the observations of Hidayatullah, C.J., in the case of ***Channabasappa Basappa Happali v. State of Mysore, AIR 1972 Supreme Court 32 : (1971)2 SCR 645****. In our opinion, in the background of facts and circumstances of this case, the nature of investigation conducted in which the appellant was associated, there has been no infraction of that principle. In the premises, for the reasons aforesaid, there has been in the facts and circumstances of the case, no infraction of any principle of natural justice by the absence of a formal opportunity of cross-examination Neither cross-examination nor the opportunity to lead evidence by the delinquent is an integral part of all quasi-judicial adjudications."*

(emphasis added)

19. Pertinently, a two-Judge bench of the Hon'ble Supreme Court in ***Diljit Singh Bedi (supra)*** opined that the dismissal of an employee, who was terminated from service for bad character, would be valid if it was preceded by an inquiry. Speaking through Justice A.K. Patnaik, the following was held:

"10. ***We find on a reading of Rule 4 of the Service Rules that an employee of the SGPC can be dismissed from service for bad character only after the charges of misconduct are established in an inquiry conducted by an inquiry committee.*** *Thus, though the Executive Committee of the SGPC may have the power under Section 69 of the Act and the Rules made thereunder to terminate the services of any employee of the SGPC,* ***it can terminate the services of any employee for misconduct, only when such misconduct is established in an inquiry.*** *It appears from the inquiry report dated 01.12.2007 of the Sub-Committee constituted by the Executive Committee of the SGPC that the Sub-Committee had accepted the explanation of the appellant that the photographs which were published in the local newspapers were of his wife. Thus, without a finding in an inquiry that the appellant was guilty of conduct which*

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had defamed the SGPC, the High Court could not have taken a view in the impugned order that the appellant had brought a bad name to the SGPC and he had been rightly relieved from service."

(emphasis added)

20. In the matter at hand, admittedly, an inquiry was held in pursuance of the chargesheet. A detailed inquiry report is also available at Annexure R-1, wherein the petitioner was found to be guilty and it was recommended that he be dismissed from service after deducting the *bheta* (price) from his service benefits while withholding the remainder permanently. Further, the petitioner was given due opportunity to cross-examine the witnesses and lead evidence but he deliberately did not attend any meeting of the inquiry committee in spite of availing several opportunities. As such, since the procedure adopted during the disciplinary action substantially complies with the Service Rules as well as the principles of natural justice, the orders passed in furtherance of the same cannot be faulted.

21. In terms of the judgment rendered by a Constitutional bench of the Hon'ble Supreme Court in ***Amalendu Ghosh vs. North Eastern Railway, AIR 1960 SC 992***, the purpose of holding an inquiry is to establish the occurrence of a misconduct and thereafter, to pass appropriate punishment, if found necessary. The petitioner served the respondent-SGPC Supervisor in the Publication Department, specifically in-charge of maintenance of the Holy Saroops. However, the petitioner has taken unfair advantage of his position by

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embezzling funds from unauthorized distribution of Holy Saroops of Shri Guru Granth Sahib, thereby toying with the sentiments of the community. The petitioner has been found guilty of misusing the Holy Saroops when he was duty-bound to ensure their proper maintenance, betraying the community he swore to serve. In the given context, insisting on an exhaustive disciplinary proceeding becomes rudimentary, especially in view of the fact that the subsequent termination order was supported by a proper inquiry. Lastly, a two Judge Bench of Hon'ble Supreme Court in ***B.S. Hari Commandant vs. Union of India and Others 2023 SCC OnLine SC 413*** has reiterated that the quantum of punishment must be proportionate to the alleged offence. Speaking through Justice Ahsanuddin Amanullah, the following was opined:

> "*33. In Bhagat Ram v. State of Himachal Pradesh, (1983) 2 SCC 442, it was opined:*
>
> > "*15. ...* ***It is equally true that the penalty imposed must be commensurate with the gravity of the misconduct, and that any penalty disproportionate to the gravity of the misconduct would be violative of Article 14 of the Constitution...*** *" (emphasis supplied)*
>
> *34. In Ranjit Thakur v. Union of India, (1987) 4 SCC 611, this Court, in the circumstances therein, commented, at paragraph no. 27, that:*
>
> > "*… the punishment is so strikingly disproportionate as to call for and justify interference. It cannot be allowed to remain uncorrected in judicial review.".*
>
> *35. In Andhra Pradesh Industrial Infrastructure Corporation Limited v. S N Raj Kumar, (2018) 6 SCC 410, this Court exposited:*

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> " ***20.…*** ***<u>In the realm of Administrative Law "proportionality" is a principle where the court is concerned with the process, method or manner in which the decision-maker has ordered his priorities and reached a conclusion or arrived at a decision. The very essence of decision-making consists in the attribution of relative importance to the factors and considerations in the case.</u>*** *The doctrine of proportionality thus steps in focus true nature of exercise — the elaboration of a rule of permissible priorities [Union of India v. G. Ganayutham, (1997) 7 SCC 463 : 1997 SCC (L&S) 1806]. De Smith [Judicial Review of Administrative Action (1995), para 13.085, pp. 601-605; see also, Wade : Administrative Law (2009), pp. 157-158, 306-308.] also states that "proportionality" involves "balancing test" and "necessity test".* ***<u>The "balancing test" permits scrutiny of excessive onerous penalties or infringement of rights or interests and a manifest imbalance of relevant considerations.</u>*** *(emphasis supplied)"*

<u>CONCLUSION</u>

22. Accordingly, the questions framed above are answered in the following manner:

(i) In light of the binding precedents rendered by the Hon'ble Supreme Court in ***Mewa Singh (supra)*** and ***Diljit Singh Bedi (supra)***, establishing the statutory nature of the SGPC Service Rules, and applying the exception recognized in ***St. Mary's Education***

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Society (supra), this Court is of the view that the present writ petition(s) against the respondent-SGPC is maintainable.

(ii) The suspension/termination of the respective petitioner(s) cannot be set aside for want of strict compliance with the Service Rules when neither any prejudice has been caused to the delinquent employee nor have principles of natural justice been violated.

23. In view of the discussion above, all the above-mentioned petitions are dismissed.

24. Pending miscellaneous application(s), if any, shall also stand disposed of.

25. Photocopy of this order be placed on the files of the connected cases.

(HARPREET SINGH BRAR)
JUDGE

December 17, 2025
P.C

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

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