

IN THE COURT OF PUNEESH JINDIA, DISTRICT JUDGE, SIRSA
(U.I.D. NO. HR 0051)

CNR No.HRSI01-00-3420-2025	CA-108 of 2025	
	Filing No./Date	869/02.04.2025
	Registration	02.04.2025
	Date of decision	22.07.2026

1.

State of Haryana through Collector, Sirsa, District Sirsa.
2.

The Deputy Commissioner, Sirsa.
3.

The Revenue Officer, Sirsa.
4.

The Commissioner, Hisar Division, Hisar.

... Appellants/defendants

Versus

Shyam Sunder Saini, son of Shri Ram Singh, resident of village 214, Shakti Nagar, Barnala Road, Sirsa, Tehsil and District Sirsa.

....Respondent/plaintiff

Appeal against order dated 19.02.2025 passed by the court of learned Civil Judge (Sr.Divn), Sirsa, in CS No.821/2022 titled as ‘Shyam Sunder Saini Vs State of Haryana and Ors.’ by virtue of which the Trial Court has decreed the suit of the plaintiff.

Present when Argued:

Shri Palvinder Singh, Government Pleader (G.P.) for the appellants.
Shri Vijay Bansal, Advocate for the respondent.

JUDGMENT:

The present Appeal has been filed by the appellants/defendants assailing the judgment & decree dated 19.02.2025, whereby suit filed by the

plaintiff/respondent was decreed while setting aside the punishment (office) orders dated 01.02.2018 & 18.06.2018 passed by defendants No.2 & 4 respectively and direction was issued to release all consequential benefits w.e.f. 23.03.2017 till 01.02.2018 including pay and allowances to him within '3' months.

Notice of the Appeal was given to the respondent (plaintiff).

Record of learned Trial Court was summoned and perused.

2. In brief, the facts as pleaded by the plaintiff are that he was serving the defendants as Sewadar in the office of Sub Divisional Officer (Civil), Dabwali. On 23.03.2017, was charged sheeted under Rule 7 of Haryana Civil Services (Punishment and Appeal), Rules, 2016 (for short the 'Rules') for an alleged act of misconduct i.e. non-performance of duty. Reply to the said charge-sheet was filed, however, without considering that defendant No.2 appointed defendant No.3 as Enquiry Officer, who on 14.07.2017 held the plaintiff guilty. Thereafter the plaintiff was served with a show cause notice by defendant No.2 on 08.08.2017, which was also duly replied, however, without considering the reply, defendant No.2 vide order dated 01.02.2018/ 13.02.2018, awarded punishment of stoppage of '3' annual increments with cumulative effect.

It is further pleaded that challenging order passed by defendant No.2, plaintiff preferred departmental appeal before defendant No.4, same was also dismissed by passing non-speaking order dated 18.06.2018 as conveyed vide endorsement dated 25.08.2020.

3. Plaintiff has further pleaded that he has wrongly been punished on the basis of a speculative charge-sheet. During enquiry, no Presenting Officer was appointed and Enquiry Officer himself conducted proceedings on behalf of the department. By not considering these aspects, both the defendants no. 2 and 4 have wrongly awarded the punishment of stoppage of '3' annual increments with cumulative effect. Before filing the suit, challenging the punishment orders, and asking for pay & allowances during suspension period, legal notice was also got issued by the plaintiff to the defendants.

4. Upon notice, all the defendants appeared, filed joint written statement submitting therein that enquiry proceedings were conducted by the Enquiry Officer in accordance with rules and instructions. It was further submitted that order dated 01.02.2018 with-holding the '3' annual increments with cumulative effect passed by the defendant No.2, after giving an opportunity of personal hearing is in consonance with the principles of natural justice. Further, order dated 25.08.2020 passed by the Appellate Authority i.e. Commissioner, Hisar Division Hisar (defendant No.4), in departmental appeal was also passed after hearing the delinquent and examining the facts on record. It was further submitted that qua plea of health problem as raised by the plaintiff in his defence, matter was referred to Civil Surgeon, Sirsa, by the enquiry officer, opinion was sought and only thereafter, enquiry was concluded. It is also averred since the delinquent was not fully exonerated from the charges and major penalty was awarded to him, he is not eligible for

the pay and allowances during suspension period. Rest of the averments of plaintiff having been denied, prayer for dismissal of the suit was made.

5. No replication was filed. On the basis of respective pleadings

following issues were framed by Learned Trial Court on 07.07.2023 -

1. Whether the order dated 01.02.2018 bearing Endst. No.401-04/Estt. Dated 13.02.2018 and order dated 18.06.2018 bearing Endst. No.25.08.2020 passed by defendant no.4 are wrong, against law and facts and are liable to be set aside, as prayed for? OPP.
2. If issue no.1 is proved in affirmative, whether plaintiff is entitled to relief of declaration along with consequential relief of permanent injunction as well as mandatory injunction, as prayed for? OPP
3. Whether suit of the plaintiff is not maintainable in the present form? OPD.
4. Whether the plaintiff has no locus-standi and cause of action to file the present suit? OPD
5. Relief
6. In order to prove his case plaintiff deposed as PW1 and tendered affidavit Ex.PW1/A. That apart he also relied upon following documents: -

Ex.P1	Legal notice dated 13.07.2021
Ex.P2 to Ex. P4	Postal receipts.
Ex.P5	Reply to legal notice
Ex. P6	Certified copy of charge-sheet memo dated 23.03.2017
Ex. P7	Certified copy of complaint dated 06.02.2017
Ex. P8	Certified copy of reply 11.04.2017 (to charge-sheet dated 22.03.2017)
Ex. P9	Certified copy of enquiry report dated 14.07.2017

Ex. P10	Certified copy of second show cause notice
Ex. P11	Certified copy of order dated 01.02.2018 bearing endorsement dated 13.02.2018
Ex. P12	Appeal memo.
Ex. P13	Attested copy of letter dated 09.03.2020
Ex. P14	Attested copy of annotated reply
Ex. P15	Order dated 18.06.2018 bearing Endorsement dated 25.08.2020 passed by defendant no.4 in appeal

7. On his turn, defendants examined Dr. Raj Kumar Bhoria, DRO, Sirsa as DW1 who tendered his affidavit Ex.DW1/A. Raj Singh, Clerk, DC Office, Sirsa deposed as DW2, also the following documents were relied upon:-

Ex.D1	Attested copy of order dated 01.02.2018
Ex.D2/Ex. D5	Attested copy of order dated 18.06.2018
Ex. D3	Attested copy of Rules
Ex. D4	Attested copy of enquiry report
Ex. D6	Attested copy of order dated 01.02.2018
Ex. D7	Attested copy of order dated 23.03.2017
Mark A	Authority letter

8. After hearing both the sides and perusing the respective evidence, vide impugned judgment & decree dated 19.02.2025 learned trial court decreed the suit (as detailed in para No.1 of this judgment)

9. Being aggrieved, the defendants have filed the present appeal to set aside the impugned judgment & decree.

10. I have heard learned G.P. for the appellants/defendants as well as learned counsel for the respondent/plaintiff and gone through the record with their assistance.

11. After hearing both the sides and on perusal of record it reveals that plaintiff is a Class-IV employee rendering services as 'Sewadar' in the office of Deputy Commissioner, Sirsa. In the course of his employment, on 06.12.2016 he was deputed to deliver 'dak'(mail), since compliance was not made, departmental proceedings against him were initiated. It also reveals that for said misconduct, plaintiff was charge-sheeted (Ex.P6/D7) on 23.03.2017 under Rule 7 of Haryana Civil Services (Punishment & Appeal) Rules, 2016, in response to the same reply (Ex.P8) was submitted by him whereby a ground was taken that on account of his medical health he was advised by the doctors not to ride the bicycle, for that reason he could not deliver the dak. Since the reply was not found to be satisfactory, accordingly, District Revenue Officer, Sirsa, was deputed as Enquiry Officer, who conducted enquiry and vide report dated 14.07.2017 (Ex.P9/D4) plaintiff was held guilty of the charge so levelled. In this report it was specified that in the course of proceedings Enquiry Officer made correspondence with the office of Civil Surgeon, Sirsa, in order to find out the health condition of the delinquent and from report (Ex.P9/D4), so submitted, it transpired that there was no material to presume that plaintiff was not able to ride the bicycle.

Record further reveals that upon finding the plaintiff guilty, a show cause notice was issued to him by defendant No.2 to which he

responded vide reply (Ex.P10), however the same was not found satisfactory and Deputy Commissioner (defendant No.2) vide order dated 01.02.2018, Endst. Dated 13.02.2018, imposed penalty of stoppage of '3 annual increments with cumulative effect. Being aggrieved, plaintiff preferred an appeal before Commissioner, Hisar Division, Hisar (defendant No.4) which was also dismissed vide order dated 18.06.2018 (Ex.P15/D5).

12. In this suit the plaintiff has assailed the findings returned in enquiry report dated 14.07.2017 (Ex.P9), subsequent punishment order dated 13.02.2018 (Ex.P11/D1) passed by defendant No.2 and 18.06.2018 (Ex.P15/D5) passed by defendant No.4, and the learned trial court while decreeing the suit, has set aside those orders primarily on the ground that *enquiry proceedings have been conducted in violation of principles of natural justice.*

13. Learned Govt. Pleader while assailing the findings of learned trial court so raised, has inter-alia submitted that it had erred in law while setting aside the punishment orders. No material is there to presume that enquiry officer acted in an arbitrary or biased manner. Enquiry was conducted in a transparent manner, plaintiff was charge-sheeted for non-compliance of the orders of his seniors, he was deputed to deliver 'dak' which he on false medical ground did not deliver. Enquiry Officer in his wisdom and to decide the matter on merit if communicated with civil surgeon, Sirsa, to get the medical report, that act cannot be presumed to be arbitrary. Learned Govt. Pleader has also stated that if presenting officer was not appointed that at best

is mere irregularity as to put-forth his version Enquiry Officer gave due opportunity to the plaintiff/ delinquent who duly participated in the proceedings.

14. Per contra, learned counsel for the plaintiff has submitted that the enquiry was not conducted fairly, principles of natural justice were not followed, the enquiry report is vitiated and arbitrary as no presenting officer was there and enquiry officer himself acted as a prosecutor. In the course of enquiry proceedings, enquiry officer himself sought report from the Civil Surgeon, Sirsa regarding health condition of the plaintiff which amounts to collecting fresh evidence whereas, he was supposed to decide the matter on the basis of material available on the record which was part of charge-sheet.

15. Since, in this suit the plaintiff has challenged the findings of the enquiry report primarily on the ground that no presenting officer was appointed by the department and the Enquiry Officer acted as a Judge and the prosecutor, it is to be seen whether this contention contains merit.

Before advertng further, it is relevant to observe that a perusal of Enquiry report and cross-examination of Raj Kumar Clerk (DW2) who deposed he was not aware whether presenting officer was appointed or not, it is apparent no presenting officer was there to assist the Enquiry Officer who himself conducted entire proceedings. Even learned Govt. Pleader could not refute this aspect.

16. Here in this case plaintiff was charge-sheeted under Rule 7 of Haryana Civil Services (Punishment & Rules) 2016 and was awarded major

penalty. In such like situation Rule 7 (8) stands attracted which relates to appointing presenting officer. For ready reference this Rule is being reproduced as under:-

Where the punishing authority itself inquiries into any articles of charge(s) or appoints an inquiry officer for holding an inquiry into such charge(s), it shall by an order appoint a Government employee or a legal practitioner, to be known as the 'Presenting Officer' to present on its behalf the case in support of the statement of charges.

From this provision it is apparent that it is obligatory upon the punishing authority to appoint presenting officer, a requirement which certainly was not fulfilled in this case, and there is substance in the plea raised for the plaintiff that Enquiry Officer himself assumed the role of prosecutor as during enquiry he made correspondence with the Civil Surgeon, Sirsa, to assess medical condition of the plaintiff. Had such a step been taken by the presenting officer then obviously plaintiff would have got opportunity to oppose and contest the same. This circumstance clearly indicates Enquiry Officer while conducting the proceedings tried to collect fresh evidence so as to prove the case of the department. Whereas, it was not his duty and scope of enquiry was to adjudicate the matter on the basis of material available and not to collect any fresh evidence. Thus, it is apparent that Enquiry Officer assumed the role of the presenting officer also and enquiry so conducted is in violation of principles of natural justice. Rule 7 (8) (supra) is necessary safeguard for a level playing field, which in this case was not complied with, leading to violation of principles of natural justice. Plaintiff is Class-IV employee, who cannot be presumed to be capable to defend himself properly,

department must have ensured all procedural safeguards, so as to ensure there was no departure from settled procedure of conducting enquiry.

In the corollary of discussion above made, no interference is warranted in the impugned judgment & decree. However, to draw a balance it is directed that defendants/appellants are free to resume the enquiry proceedings from the stage of appointing the presenting officer and conclude the disciplinary proceedings initiated against the plaintiff/respondent in accordance with law.

17. No other point had been urged or survived for arguments.

CONCLUSION

18. In view of the above discussion, **the Appeal in hand stands Dismissed with costs.** Impugned judgment & decree dated 19.02.2025 passed by learned Trial Court is hereby affirmed. Decree-sheet be prepared accordingly. Trial court record alongwith a copy of this judgment be sent back. Appeal file be consigned to record room after due compliance.

Pronounced in open Court.

Dated: 22.07.2026

(Mamta Phutela, Stenographer-I)

(Puneesh Jindia)

District Judge, Sirsa.

UID NO.HR-0051

All the pages of this judgment have been checked and signed by me.

(Puneesh Jindia)

District Judge, Sirsa

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Puneesh Jindia,
District Judge,
Sirsa/ 22.07.2026