



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-878-2025 (O&M)

Gursher Singh Sandhu ...Petitioner

Versus

State of Punjab & others ...Respondents

Sr. No.	Particulars	Details
1.	The date when the judgment is reserved	25.08.2026
2.	The date when the judgment is pronounced	01.09.2026
3.	The date when the judgment is uploaded on the website	02.09.2026
4.	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	N.A.

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. D.S.Patwalia, Senior Advocate, assisted by
Mr. Bikramjit Singh Patwalia, Mr. Gaurav Jagota and
Mr. Edward George Masih, Advocates, for the petitioner.

Mr. P.I.P. Singh, Addl. AG, Punjab, assisted by
Ms. Anisha, Mr. Amitoj Bir Singh, Ms. Sakshi Sehgal and
Mr. Gurvishwraj Singh, Advocates, for the respondents.

NAMIT KUMAR, J.

1. The present petition has been filed by the petitioner under Articles 226 of the Constitution of India, seeking the following reliefs:

“i. a writ in the nature of Certiorari quashing the order dated 02.01.2025 (Annexure P-26) vide which the services of the petitioner have been dismissed from the post of DSP by invoking the provisions/powers conferred under Article 311(2)(b) in a completely illegal and arbitrary manner and without taking into consideration the fact that the said



(2)

provision could not have been invoked, keeping in view the fact that departmental/disciplinary proceedings already stood initiated against the petitioner and also being in total contravention of the provisions of law as settled including in Union Of India And Another vs Tulsiram Patel And Others reported as 1985 (2) SLR 576 and the said order of dismissal also wrongly recorded that this Hon'ble Court in CWP-PIL-93-2023 has already concluded that the petitioner facilitated recording of an interview of Lawrence Bishnoi which is factually incorrect and the order being completely perverse to the settled provisions of law.

- ii. to issue an appropriate writ, order or direction including a writ in the nature of Mandamus directing the Respondents to comply with the provisions of Rule 8 of The Punjab Civil Services (Punishment and Appeal) Rules, 1970 as also the procedure mandated under Rule 16.24 of the Punjab Police Rules, 1934 and complying with the Principles of natural justice as well specially keeping in view the fact that the petitioner has repeatedly approached the Respondents vide representation dated 15.12.2024 (Annexure P-22) and 18.12.2024 (Annexure P-24) to grant him opportunity of hearing as also to provide documents so as to give effective reply to the show cause notice as well as the Articles of charges/charge sheet.*
- iii. to issue any other appropriate writ, order or direction which this Hon'ble Court may deem fit and proper in the peculiar facts and circumstances of the present case.”*

2. Briefly stated, the facts of the case, as have been pleaded in the petition, are that the petitioner initially joined the Border Security Force (BSF) as Assistant Commandant on 19.11.2012 and served there till 17.06.2015. During his tenure in BSF, he was deployed at the Indo-Bangladesh Border from 17.12.2013 till 17.06.2015 and was also posted on election duty in Jammu and Kashmir Assembly Elections during November-December, 2014.



(3)

3. Pursuant to an advertisement issued by the Punjab Public Service Commission (PPSC) in the year 2013, the petitioner was selected and appointed to the post of Deputy Superintendent of Police (DSP) in the Punjab Police on the recommendation of the PPSC, vide order dated 16.05.2016 (Annexure P-2). Upon his selection, the petitioner submitted his charge report on 30.05.2016 for undergoing basic training at PPA, Phillaur. In the year 2018, he was transferred as DSP (Headquarters), Mohali. In 2019, he was transferred as DSP, Sub Division, Amloh and thereafter as DSP, Mohali (City-1). Vide order dated 17.07.2022 (Annexure P-3), he was transferred as DSP (Detective), SAS Nagar.

4. According to the petitioner, after the murder of Punjabi Singer, namely, Subhdeep Singh Sidhu (known as Sidhu Moosewala), a particular gang (known as Lawrence Bishnoi) was projected on social media as having claimed responsibility for the murder. At that point of time, Lawrence Bishnoi was lodged in Tihar Jail. Since he was required for investigation in FIR No.103 dated 29.05.2022 registered at Police Station City-1, Mansa, a Special Investigation Team (SIT) was constituted, vide order dated 01.06.2022 (Annexure P-4) under the overall supervision of the Additional Director General of Police, Anti-Gangster Task Force (AGTF).

5. The SIT, supervised by the then ADGP (AGTF), along with Mansa Police brought Lawrence Bishnoi from Tihar Jail to Mansa and thereafter kept him in the custody at CIA Staff, Mohali (Camp at Kharar). The petitioner asserts that the entire security was supervised by the ADGP (AGTF) and for the entire duration of around 6 months, the same was supervised by them. According to the petitioner, he had no role either in bringing Lawrence Bishnoi to Punjab or in overseeing his stay while in



(4)

custody at CIA Staff, Mohali and he was never an enquiring/investigating officer in any case against Lawrence Bishnoi.

6. It is further the case of the petitioner that when Lawrence Bishnoi was kept at CIA Staff, Kharar, a query was raised by the Bureau of Investigation as to why he had been kept there in respect of cases pertaining to other districts. In response thereto, the then ADGP (AGTF) stated to have informed the authorities that, at the relevant time, the AGTF was newly constituted and did not have an independent interrogation centre and, therefore, Lawrence Bishnoi was kept at CIA Kharar, which was considered as a strategic and secure location close to the headquarters of the AGTF.

7. It is further the case of the petitioner that he was posted as DSP (Detective), Mohali, after the death of Moosewala and after the transfer of Lawrence Bishnoi. In March, 2023, an interview was telecasted by a news channel, wherein Lawrence Bishnoi was interviewed while he was in the custody of Punjab Police. The said interview was aired in March, 2023, but the said interview was stated to have been conducted much earlier. A two-member Committee comprising of the then Director General, STF and the ADGP, Prisons, was constituted in March, 2023, to enquire into the incident and as to how the interview had taken place while he was in the custody of the Punjab Police.

8. While the said investigation was going on, a public interest litigation bearing CWP-PIL-93-2023 titled 'Court on its own motion Vs. State of Punjab & others' came to be listed pursuant to *suo motu* notice taken by a learned Single Judge of this Court in CRM-M-44786-2023 regarding the use of mobile phones inside jail premises by the inmates and as to what steps are being taken to curb the entry of such prohibited items.



(5)

During those proceedings, the issue as regards murder of Sidhu Moosewala as well as interview of Lawrence Bishnoi, which was aired in March, 2023, became a matter of adjudication in the said PIL. In the said proceedings, an order dated 21.12.2023 was passed by the Division bench after consideration of the report submitted by the Committee. From the report, it transpired that, in fact, not one but two interviews had been conducted. The Committee recommended registration of FIRs in respect of the two interviews. The operative portion of the order dated 21.12.2023 reads as under:

“In view of the above, we deem it appropriate to issue following directions:

- i) The DGP, Punjab, is directed to immediately register two FIRs with regard to the conduct of two interviews as recommended by the Special Investigation Team in the police station having State-wide jurisdiction.*
- ii) The investigation of the FIRs shall be carried out by the Special Investigation Team headed by Mr. Prabodh Kumar, IPS, DG, Human Rights Commission. The other members of the SIT would include Dr. S.Rahul, IPS and Ms.Nilambari Vijay Jagadale, DIG, Cyber Crime.*
- iii) The Head of the SIT would be at liberty to seek assistance of any other officer or of any other kind, on his making a request, the DGP, Punjab shall provide all necessary help and assistance to him. A copy of the report dated 11.12.2023 and the relevant record shall be handed over to the Head of the SIT. The SIT shall conclude the investigation expeditiously and file a status report before this Court within a period of two months.*
- iv) The DGP, Punjab is further directed:*
 - (a) to get the URLs/weblinks/videos pertaining to both the said interviews*



(6)

removed/blocked/disable/restrict from all social media platforms like Youtube etc. forthwith;

- (b) To ensure that the Press channel, where the said interview is hosted, removes the URLs/weblinks/videos from all its news /social media platforms with immediate effect;*
- (c) In case the said interviews are discovered by police authorities to be existing on any social media platform in future, the same be get removed with immediate effect;*
- (d) to direct the intermediary to preserve all the information associated relating to the offending content for use in investigation, in line with Rule 3(1) (g) of the 2021 Rules;*
- (e) To direct the search engines Google Search, Yahoo Search, Microsoft Bing to globally de-index and dereference from their search results the afore-said interviews and their related contents as identified by its web URL and image URL.*
- (f) All the concerned intermediaries be informed that noncompliance with the foregoing directions would make the non-complaint party liable to forfeit the exemption, if any, available to it generally under Section 79 (1) of the I.T.Act and as specified by Rule 7 of 2021 Rules: and shall make such entity and its officers liable for action as mandated by section 85 of the I.T.Act.*
- (g) The ADGP, Prisons, Punjab shall file a status report with regard to the timelines for installation of jammers, CCTV cameras, nylon mesh, X-ray body scanners etc. for augmentation of jail security.”*

9. In compliance with the aforesaid order, the Punjab Police registered FIR No.0001 dated 05.01.2024 at Police Station Punjab State



(7)

Crime, SAS Nagar, under Sections 384, 201, 202, 506, 116, 120-B IPC and Section 52-A(1) of the Prisons (Punjab Amendment) Act, 2011 and FIR No.02 dated 06.01.2024.

10. It is the case of the petitioner that he was neither named in the said FIR nor has been arrayed either as an accused or as a suspect till date. Pursuant to the order dated 21.12.2023, a Special Investigation Team (SIT) was constituted. Since, at that time, the petitioner was posted as DSP (Special Branch & Criminal Intelligence), SAS Nagar, he was also called by the SIT in connection with the investigation. The petitioner duly appeared before the SIT and responded to all the queries put to him. Thereafter, vide order dated 03.08.2024 (Annexure P-8), the petitioner was transferred from DSP (Special Branch & Criminal Intelligence), SAS Nagar to DSP, 9th Battalion, Punjab Armed Police, Amritsar. The petitioner joined at the transferred place and requested for medical leave for 14 days due to injury and having been recommended bed rest for two weeks by the PGIMER, Chandigarh, vide request dated 12.09.2024 (Annexure P-10).

11. On the same very day i.e. 12.09.2024, an interim status report was submitted by the SIT, which stated that while conducting investigation in FIR No.02 dated 06.01.2024, it had transpired that interviewee was in Central Jail, Jaipur, when the interview was conducted and it was also stated that the first interview was conducted on the night intervening 03/04.09.2022 and the interviewee was in the premises of CIA Staff, Kharar. Learned Advocate General, Punjab, upon instructions from the competent authority, submitted that disciplinary action would be initiated against the officers, who were In-charge of CIA Staff as well as the supervisory officers in accordance with law. The Court also opined that "*We hope and trust that*



(8)

action would not be confined to the lower level officials but extend to the higher officers who had supervisory jurisdiction over CIA Staff, Kharar including the then SSP, who was the Head of the District Police when the interview was conducted.”

12. In this background, the petitioner was issued a show cause notice dated 19.09.2024 (Annexure P-11), alleging that premises of CIA Staff, Kharar fell within the jurisdiction of Police District SAS Nagar, Mohali and that a dreaded gangster in police custody had been able to give an interview, which pointed to a major break-down of command and to lax standards of discipline. It was alleged that the CIA Staff comes under direct control of the Deputy Superintendent of Police (Investigation), SAS Nagar and that lack of adequate supervision on his part had allowed the interview to happen, which has in turn severely dented the image of the State Government. The petitioner was called upon to show cause as to why disciplinary proceedings should not be initiated against him and was given 7 days time to submit his reply.

13. The petitioner, in response to the aforesaid show cause notice, submitted a detailed reply dated 25.09.2024 (Annexure P-12), wherein *inter alia* it was stated that when Lawrence Bishnoi was kept in the premises of CIA Staff, Kharar, the inner security of Lawrence Bishnoi was entrusted to and supervised by AGTF, which had deployed SOG Commandos and officers of AGTF for his inner security and the petitioner had no role to play in supervising the inner security of Lawrence Bishnoi and the CIA was only entrusted with the security of the outer cordon of the campus as well as for ensuring his security during transit, which the CIA carried out diligently and meticulously.



(9)

14. Meanwhile, after investigation in FIR No.01 dated 05.01.2024, a cancellation report under Section 173 Cr.P.C. (Annexure P-13) was prepared by the police. In respect of issue of investigation with regard to mobile having been used in the interview of Lawrence Bishnoi, it was concluded as under:

“Conclusion: During the investigation, from the above facts, this fact has come to the notice that the interview of the accused Lawrence Bishnoi got recorded on the intervening night of 03.09.2022 and 04.09.2022 is of the period of his in police custody in C.I.A. Kharar, District S.A.S. Nagar. In this, the negligence, carelessness and irregularity of the police officials towards their duty has been found. In this regard, it is being separately written to the Government of Punjab for taking action.

From the investigation of the case, a case under section 506 IPC is found to be made out against the accused Lawrence Bishnoi. This office is not liable for taking action by the police. Thus, at this stage of the case, the cancellation report is liable to be prepared and submitted in the Illaqa Court for approval. For getting further action taken against the accused Lawrence Bishnoi under Section 506 IPC, it is directed to pursue the same in the Court.

It is also made clear that since in continuation of the interview, Lawrence Bishnoi has not committed any cognizable offence, for this reason, no case under section 120-B IPC is made out against any police official.

If any other evidence with regard to the mobile phone used by Lawrence Bishnoi for the interview pertaining to this case, comes on the file, then separate supplementary report under section 173 (8) Cr.P.C. will be submitted in the Hon'ble Court.

On the basis of the above investigation of the SIT, vide Rapat No.11 dated 08.10.2024, the sections 384, 201, 202, 116, 120-B and 52-A (1) The Prisons (Punjab Amendment) Act, 2011 are deleted in the FIR. The cancellation report under section 173 Cr.P.C. has been prepared against the accused Lawrence Bishnoi for the offence under section 506 IPC, which is submitted for approval. If any other evidence with regard to the mobile phone used by Lawrence Bishnoi



(10)

for the interview pertaining to this case, comes on the file, then separate supplementary report under section 173 (8) Cr.P.C. will be submitted in the Hon'ble Court.

*Sd/-
Station House Officer
Police station Punjab State Crime
Police station Phase-4 Mohali
District S.A.S. Nagar
Dated: 08.10.2024”*

15. Thereafter, the petitioner was issued second show cause notice dated 14.10.2024 (Annexure P-14), wherein it was alleged that the petitioner had facilitated the recording of interview of Lawrence Bishnoi, by being personally present at the premises of CIA Staff Kharar, during the night intervening 03/04.09.2022, while also being in close and constant touch, both telephonically and personally, with the interviewee Sh. Jagwinder Patial of ABP Sanjha News Channel and the misconduct, negligence and dereliction of duty on his part had severely dented the image of the State Government and his reply was sought within a period of 2 days. In response thereto, the petitioner submitted an interim reply dated 17.10.2024 (Annexure P-15) and requested the respondents for supply of the necessary documents.

16. While the petitioner was awaiting for the necessary documents, FIR No.33 dated 15.10.2024 under Sections 419, 465, 467, 468, 477 IPC and Section 13(2) of the Prevention of Corruption Act, 1988, was registered against the petitioner at Police Station Punjab State Crime, SAS Nagar, on the allegation that he had misused his official position with an intention to gain monetary benefits by involving himself in a disputed land and property.

17. Subsequently, the petitioner, along with six other officials, was placed under suspension, vide suspension order dated 25.10.2024 (Annexure



(11)

P-16), under Rule 4(1)(a) of the Punjab Civil Services (Punishment & Appeal) Rules, 1970. Thereafter, a charge-sheet dated 25.10.2024 (Annexure P-17) was issued to the petitioner. The petitioner, however, asserts that the respondents merely pasted the covering letter of the charge-sheet, without the complete articles of charge/s, outside his residential premises i.e. House No.3149, Sector 39, Chandigarh, which had been allotted to him during his posting at SAS Nagar (Mohali) instead of effecting service of the complete charge-sheet at his permanent residential address i.e. House No.99, Jyoti Nagar, Jalandhar, as per the current place of posting i.e. 9th Battalion, Punjab Armed Police, Amritsar. It is the case of the petitioner that the said charge-sheet was not received by the petitioner though he received covering letter of the said charge-sheet categorically mentioning that article of charge/s including memorandum is of 7 pages, but only first 3 pages were pasted. However, he was shocked to read an article in newspaper 'Hindustan Times', wherein it was stated that the respondents had already recommended the dismissal of the petitioner by invoking Article 311(2)(b) of the Constitution and the case has been forwarded to the Chief Minister, Punjab, for his approval. The petitioner immediately submitted a detailed representation dated 15.12.2024 (Annexure P-22) to respondents No.1 & 2, which was received on 16.12.2024.

18. On the same very day i.e. 16.12.2024, a statement was made before the Court in CWP-PIL-93-2023, that the State Government has decided to dismiss the petitioner by invoking powers under Article 311 (2) of the Constitution of India and the recommendation has been made to the PPSC in that regard for further action. It was also stated before the Court that the departmental action has been initiated under Rule 10 of the All India



(12)

Services Rules against the senior officers as well and also those officers have been posted outside District Mohali and that he shall submit a list of proposed names, who would conduct the departmental inquiry, in a sealed cover to the Court on the next date of hearing.

19. The petitioner, thereafter, submitted another representation dated 18.12.2024 (Annexure P-24) to the Chairman, PPSC, Patiala, seeing grant of fair and reasonable opportunity to him against the recommendations made by the State Government to the PPSC, for the dismissal of the petitioner while invoking provisions of Article 311(2)(b) of the Constitution. On 18.12.2024 (Annexure P-25), the aforesaid PIL was again listed for hearing before this Court and the following relevant order was passed:

“xx xx xx

Learned Advocate General, Punjab has filed an affidavit of the Secretary, Department of Home Affairs which is taken on record. It is stated in the affidavit that although an Inquiry Officer was appointed, but they are willing to re-consider the matter. Learned Advocate General, Punjab has submitted a panel of retired judges to this Court in a sealed cover. After going through the material placed in sealed cover, the same is returned back.

The Government shall consider appointing Justice Rajiv Narain Raina, Former Judge of this Court as the Inquiry Officer. He shall be provided adequate security and infrastructure by the State Government. The competent authority may pass necessary order in this regard expeditiously. Needless to mention that the Inquiry Officer would be suitably remunerated.

Mr. Rakesh Kumar Nehra, Senior Advocate is also appointed as Amicus Curiae to assist the Court. A complete set of paper book be given to him.

List on 16.01.2025.

The SIT shall submit its status report on the next date of hearing.



(13)

A photocopy of this order be placed on the files of connected cases.”

20. However, vide order dated 02.01.2025 (Annexure P-26), the petitioner was dismissed from service while invoking Clause 2(b) of Article 311 of the Constitution while dispensing with the enquiry on the ground of non cooperative attitude of the petitioner. It is the said order, which has been challenged in the present petition.

21. It is further pleaded that even after passing of the impugned order of dismissal on 02.01.2025 (Annexure P-26), the Presenting Officer issued letter dated 23.09.2025 (Annexure P-30), whereby the petitioner and other eight officers/officials of the Police Department against whom departmental enquiry had been initiated, were called upon to appear before the Enquiry Officer, namely, Mr. Justice Rajiv Narain Raina, former Judge of this Court, on 28.09.2025 at 11.30 AM. The said letter dated 23.09.2025 reads as under:

*“OFFICE OF THE
DIRECTOR GENERAL OF POLICE
PUNJAB, CHANDIGARH*

*ADMINISTRATION WING
Secret Section-4*

To

- 1. Additional Director General of Police, Anti Gangster Task Force, SAS Nagar.*
- 2. Additional Director General of Police, NRI, Punjab, SAS Nagar.*
- 3. Commissioner of Police, Ludhiana.*
- 4. Senior Superintendent of Police, SAS Nagar.*
- 5. Commandant, 9th Battalion, PAP, Amritsar.*
- 6. Commandant, 5th, IRB, Amritsar.*

No.3507-12/Superintendent Chandigarh dated 23.09.2025

Sub: CWP-PIL-93-2023 (O&M) and other (Court on its own motion Vs. State of Punjab & Ors.) (Regarding department proceedings against Punjab Police Officials.



(14)

Vide State Government's letter no. HOME-HM-10ING/27/2024-2H1/375 dated 21.02.2025, Mr. Justice Rajiv Narain Raina, Former Judge, High Court has been appointed as Inquiry Officer and the undersigned (Jaswinder Singh, Supdt./Gr-1, Secret Section-4, CPO, Punjab) has been appointed as Presenting Officer.

2. Regarding subject cited above, Inquiry Officer Mr. Justice Rajiv Narain Raina, Former Judge, High Court, Punjab Police Officer Institute, Sector 32, Chandigarh has instructed the below mentioned officers/employee to appear in the meeting to be held on 28.09.2025 at 11.30 a.m;

1.	<i>Sh. Amandeep Singh Brar, the then ADCP/INV, Ldh., now SP/INV, SAS Nagar.</i>
2.	<i>Sh. Ajinder Singh, the then SP/Hqrs, SAS Nagar now ADCP/Hqrs, NRI, Punjab SAS Nagar.</i>
3.	<i>Sh. Gursher Singh Sandhu, the then DSP (D) SAS Nagar</i>
4.	<i>Sh. Samar Vaneet, PPS the then DSP/PBI/EOW, SAS Nagar now DSP/5th IRB, ASR (Under Suspension)</i>
5.	<i>Sub. Inspr. (LR) Jagatpal Jangu, AGTF, Punjab (under suspension).</i>
6.	<i>Sub. Inspr. (LR), Shaganjit Singh, No. 531/W, AGTF, Punjab (Under Suspension)</i>
7.	<i>Sub. Inspr. Reena, CIA, Kharar, SAS Nagar (Under Suspension)</i>
8.	<i>ASI Mukhtiar Singh, No. 511/SAS Nagar the then Duty Officer (Under Suspension)</i>
9.	<i>HC (LR) Om Parkash, No. 1131/SAS Nagar, the then Night MHC CIA, Kharar, SAS Nagar (under suspension).</i>

3. Therefore, you are requested to inform the said officers/employees to appear before the Inquiry Officer on fixed date and time and the receipt of this letter be supplied to this office.

*Sd/-
Presenting Officer,
For Director General of Police, Punjab*

*No. /Superintendent Chandigarh dated: 23.09.2025
A copy of above is forwarded to following for information and further necessary action:*

- 1. Mr. Justice Rajiv Narain Raina, Former Judge, High Court.*
- 2. Sh. Ravi Kumar, IPS, AIG, Counter Intelligence, Punjab.*
- 3. Superintendent/Secret Branch, CPO, Punjab.*

*Sd/-
Presenting Officer,
For Director General of Police, Punjab ”*



(15)

22. Pursuant thereto, the petitioner submitted an application dated 11.10.2025 to Mr. Justice Rajiv Narain Raina, Former Judge of this Court, through his counsel seeking a copy of the charge-sheet. In response thereto, as directed by the Enquiry Officer, namely, Mr. Justice Rajiv Narain Raina, former Judge of this Court, a copy of the charge-sheet along with copies of the Show Cause Notices dated 19.09.2024 and 14.10.2024 were supplied to the petitioner, vide letter dated 13.10.2025 (Annexure P-31) issued by the Assistant Inspector General of Police, Counter Intelligence, Punjab and the petitioner was directed to file his reply by 01.11.2025 at 12:00 noon at the Punjab Police Officers' Mess, Sector 32, Chandigarh. The relevant extract of the said letter dated 13.10.2025 (Annexure P-31) reads thus:

“2. You moved an application on 11.10.2025 before Mr. Justice Rajiv Narain Raina, Former Judge of the High Court and Enquiry Officer, through your counsel Mr. Gursimran Singh, seeking a copy of the charge sheet. As directed by the Enquiry Officer during the proceedings held on 11.10.2025, a copy of the charge sheet, along with copies of the Show Cause Notices dated 19.09.2024 and 14.10.2024, is enclosed herewith. You are directed to file your reply by 01.11.2025 at 12:00 noon at the Punjab Police Officers' Mess, Sector 32, Chandigarh.”

23. Consequently, the petitioner (through virtual mode) along with his counsel appeared before the Enquiry Officer on 01.11.2025 and submitted his reply to the charge-sheet dated 01.11.2025 (Annexure P-32). Thereafter, the enquiry proceedings were adjourned to 06.12.2025, 05.03.2026 & 14.03.2026 and the petitioner appeared before the Enquiry Officer even on these dates through virtual mode, whereas his counsel appeared physically.



(16)

24. When the hearing of the instant petition had taken place before a Coordinate Bench of this Court on 10.04.2026, the following order was passed:

“When confronted with the argument that departmental proceedings are currently underway under the chairmanship of Hon’ble Mr. Justice Rajiv Raina (Retd.), and that dismissing the petitioner from service midway through such proceedings is wholly unjust, unfair, and unconstitutional particularly in light of Article 311(2) of the Constitution of India, learned State counsel sought time to obtain necessary instructions, citing lack of awareness regarding the pendency of the disciplinary proceedings against the petitioner.

On his request, adjourned to 22.04.2026.”

25. Thereafter, the enquiry proceedings were held on 03.05.2026 and after noticing that the petitioner has already been dismissed from service while invoking the provisions of Article 311(2)(b) of the Constitution by dispensing with enquiry as not reasonably practical and consequently, the enquiry proceedings with regard to the petitioner were closed by the Enquiry Officer.

26. Written statement on behalf of respondents No.1, 2, 4 & 5 by way of affidavit of Mr. Parmdeep Singh, Under Secretary, Department of Home Affairs, Punjab, has been filed, wherein the facts stated hereinabove have not been disputed. However, with regard to dispensing with the enquiry, it has been stated as under:

“8. That the Special Investigation Team (SIT) constituted under the directions of this Hon'ble Court in CWP-PIL-93-2023 (O&M) and other connected cases titled as "COURT ON ITS OWN MOTION V/S STATE OF PUNJAB AND ORS" had concluded that Petitioner facilitated the recording of an interview of the Lawrence Bishnoi by a TV Channel while he was in custody of CIA Staff, Kharar. Due to



(17)

the gravity of the matter, the Petitioner was placed under suspension vide order dated 25.10.2024 and a charge sheet under rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 was issued vide dated 25.10.2024.

9. *That, it was not reasonably practicable to hold an Inquiry into the charge-sheet against the Petitioner due to non-cooperative attitude of the officer and his unauthorized absence from duty. Respondent no. 4 had apprised of the fact that Petitioner has evaded all attempts to receive the charge-sheet. In the course of these efforts to serve him, when Petitioner continued to evade receiving charge-sheet, the Commandant, 9th-Battalion, Punjab Armed Police (PAP), Amritsar, arranged for the order to be affixed at the doorstep of the Petitioner's residence as a means of ensuring formal service in compliance with procedural requirements. The detailed report submitted by Commandant 9th Bn, PAP, Amritsar regarding the efforts made to deliver the charge-sheet to Petitioner has also been conveyed by the respondent no. 4 vide his officer Memo no. 7186/CB-3, dated 08.11.2024. It is further submitted that the Petitioner, instead of cooperating in the departmental proceedings, was deliberately obstructing the departmental proceedings. It is further submitted that after careful consideration of the facts and circumstances, the State Government was satisfied that the Petitioner has severely tarnished the image of the Punjab Police as a result of his misconduct, negligence and dereliction of the duty during the occurrence of the interview of Lawrence Bishnoi, while in custody of CIA Kharar. His failure to perform his duty properly was a gross violation of the discipline and conduct rules of the Punjab Police.*
10. *That, for the reasons stated hereinabove, Regular Departmental Enquiry was dispensed on cogent material and regular departmental enquiry has not dispensed with solely on the 'Ipse dixit' of the concerned competent punishing Authority. The condition precedent was satisfied before the action under Article 311 (2)(b) of second proviso taken against the Petitioner is that holding of enquiry is not reasonably practicable in the opinion of a reasonable prudent person taking a reasonable view of the prevailing situation.*



(18)

11. *That it is also further submitted that the proper and due procedure of law was followed and case of the Petitioner falls within the purview of proviso (b) to Article 311(2) of the Constitution. Hence, the Competent Authority has recorded the reasons in writing as to why it was not practicably possible to conduct regular departmental enquiry. The Competent Authority after recording the reasons in writing for dispensing with the enquiry also proceeded with an order imposing the penalty. The reasons recorded by the Competent Authority are very clear, just and not vague and not just the repetition of the language of the relevant rules. The Competent Authority has followed the relevant guidelines/instruction along with relevant case laws and same has been strictly adhered and meticulous compliance of the same has been made.*
12. *That it is further submitted that special procedure as provided in rule 13 (ii) of the Punjab Civil Services (Punishment & Appeal) Rules, 1970 has been followed which also provides that where the punishing authority is satisfied the reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules. In this regard, the Punjab Public Service Commission was also be consulted before orders imposing penalty. The respondent no. 3 vide letter dated 26.12.2024 (Annexure R-10) has also concurred with the proposal of the State Government against the Petitioner and granted approval to dismiss the Petitioner from Government Service under Article 311 (2)(b) of the Constitution of India. Therefore, the process as prescribed in law was followed before passing the dismissal order against the Petitioner.”*

27. In nutshell, the stand of the respondents is that the petitioner did not cooperate in the departmental proceedings and was deliberately obstructing the departmental proceedings and under these circumstances, the State Government was satisfied that the petitioner has severely tarnished the image of the Punjab Police as a result of misconduct, negligence and dereliction of duty during occurrence of the interview of Lawrence Bishnoi while in custody of CIA Staff Kharar and for the aforementioned reasons, a



(19)

regular departmental enquiry was dispensed with on cogent material as holding of enquiry against the petitioner is not reasonable practicable.

28. Replication has been filed by the petitioner controverting the averments made in the written statement filed on behalf of respondents No.1, 2, 4 & 5.

29. Learned senior counsel appearing for the petitioner, while referring to the provisions of Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 (hereinafter referred to as the '1970 Rules'), as also the procedure prescribed under Rule 16.24 of the Punjab Police Rules, 1934 (hereinafter referred to as the 'PPR'), contends that the power of punishment vested in the competent authority is not unfettered, but is circumscribed by the safeguards embodied in Article 311 of the Constitution of India and the provisions of the '1970 Rules' and the 'PPR'. It is submitted that dismissal from service constitutes a major penalty and, therefore, ordinarily cannot be imposed without conducting a regular departmental inquiry in accordance with the prescribed procedure. According to learned senior counsel, dispensing with such inquiry is permissible only in the exceptional circumstances specifically contemplated under Article 311(2) of the Constitution and the applicable service rules. He, thus, contended that the punishment of 'dismissal' awarded to the petitioner is a 'major penalty' and the competent authority can award the same after holding a regular departmental inquiry. It is further contended that Article 311(2) of the Constitution of India contemplates that if a person is a member of a civil service of the Union or all India Service or a Civil Service of a State or holds a civil post under the Union or a State, he shall not be dismissed or removed or reduced in rank except after an inquiry in



(20)

which he has been informed of the charges against him and has been afforded reasonable opportunity of being heard. He further contends that Clause (b) of second proviso provides that where the authority empowered to remove a person is satisfied for some reason to be recorded in writing, to the effect that holding an inquiry is not 'reasonably practicable', the orders can be passed without adhering to the general principle contemplated by Article 311(2) of the Constitution. It is forcefully contended that while the petitioner was placed under suspension, the reasons as assigned of 'evasion of service and non-cooperative attitude in departmental proceedings' are flimsy. In absence of any convincing material, exercise of such extraordinary power ignoring the procedure prescribed under the above Rules is not permissible otherwise it would amount to misuse of the power by the competent authority. Learned senior counsel further contends that impugned order of dismissal from service without conducting a departmental inquiry is also arbitrary as the respondents, having already initiated disciplinary proceedings against the petitioner by issuing two show-cause notices, followed by suspension order and thereafter issued charge-sheet, could not subsequently invoke Article 311(2)(b) of the Constitution to dispense with the departmental enquiry. He submitted that the impugned order is contrary to the law particularly when no cogent, contemporaneous and legally sustainable reasons have been recorded to demonstrate that holding an enquiry against the petitioner had become not reasonably practicable.

30. Learned senior counsel further submitted that the decision to dismiss the petitioner had, in fact, already been taken, as is evident from the statement of the learned Advocate General recorded in the order dated 16.12.2024 passed in CWP-PIL-93-2023. He submitted that the finding of



(21)

the respondents that the petitioner had deliberately evaded service of the charge-sheet and that, in such circumstances, holding an enquiry was not reasonably practicable, is factually incorrect. According to him, the respondents were fully aware of the petitioner's permanent address at Jalandhar, where all other communications had admittedly been duly served, whereas the charge-sheet was sent to his old Chandigarh address after he had already been transferred therefrom. He, thus, submitted that the invocation of Article 311(2)(b) of the Constitution is contrary to the principles of natural justice and the law laid down by the Hon'ble Supreme Court in *Union of India v. Tulsiram Patel and Others*, (1985) 3 SCC 398; *Jaswant Singh v. State of Punjab and Ors.*, (1991) 1 SCC 362; *Ex. Const. Chhote Lal v. Union of India & Ors.*, (2000) 10 SCC 196; *Sudesh Kumar v. State of Haryana and Ors.*, (2005) 11 SCC 525; *Tarsem Singh v. State of Punjab & others*, (2006) 13 SCC 581; *Reena Rani v. State of Haryana & others*, (2012) 10 SCC 215 and *Risal Singh v. State of Haryana*, (2014) 13 SCC 244.

31. Per contra, learned State counsel submitted that although the petitioner was initially served with two show-cause notices dated 19.09.2024 (Annexure P-11) and 14.10.2024 (Annexure P-14), and was thereafter placed under suspension and issued a charge-sheet dated 25.10.2024 (Annexure P-17), but he failed to cooperate with the disciplinary proceedings and deliberately evaded service of the charge-sheet. It was, therefore, contended that, keeping in view the gravity of the allegations levelled against the petitioner and upon being satisfied that it was not reasonably practicable to hold a regular departmental enquiry, the competent authority was empowered to invoke Article 311(2)(b) of the Constitution.



(22)

Learned State counsel further submitted that the satisfaction recorded by the competent authority was based upon the conduct of the petitioner and, therefore, could not be termed arbitrary or without jurisdiction. It was further submitted that the impugned order dated 02.01.2025, having been passed in exercise of the constitutional power under Article 311(2)(b), does not warrant interference by this Court. In support of his contentions, learned State counsel has placed reliance upon the judgment of Hon'ble Supreme Court in *Tulsiram Patel's case (supra)*.

32. I have heard learned counsel for the parties and have perused the record with their able assistance.

33. In the case at hand, since the order of dismissal of the appellant has been passed in exercise of the power under clause (b) of second proviso to Article 311(2) of Constitution of India, the said provision is relevant to understand its ambit and scope, hence, reproduced as under:

“311. Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State –

(1) No person who is a member of a civil service of the Union or an all India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by a authority subordinate to that by which he was appointed.

(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges;

Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any



(23)

opportunity of making representation on the penalty proposed:

Provided further that this clause shall not apply-

(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State, it is not expedient to hold such inquiry.”

34. A plain reading of aforesaid provisions of Article 311(2) of the Constitution incorporates a valuable safeguard available to a civil servant against dismissal, removal or reduction in rank. No such penalty can be imposed ordinarily except after holding an enquiry in which the delinquent employee is informed of the charges against him and afforded a reasonable opportunity of being heard. As per first proviso thereto, in case an inquiry is conducted for the purpose of imposing penalty, it is not necessary to afford an opportunity at the stage of penalty. Clause (b) of the second proviso to Article 311(2) of the Constitution restricts the applicability of Article 311(2) in a specific situation: (i) if the appointing authority is satisfied that there should be deviation from mandate of Article 311(2) because adherence to the same is not ‘reasonably practicable’; and (ii) such reasons are to be recorded in writing. Similarly, when such power to deviate from the applicable procedure is to be exercised under clause (c) of the second proviso, it may be done so, only in the interest of ‘security of the State’ or ‘if



(24)

it is not expedient to hold such inquiry'. Be that as it may, the present case relates to clause (b) of the second proviso to Article 311(2) of the Constitution, therefore, the applicability of the said provision needs to be discussed in the facts of this case.

35. It is trite law that the decision of the appointing authority on the issue of 'recording reasons in writing on its satisfaction as to why holding an inquiry is not reasonably practicable' may be subject to judicial review under Article 226 by the High Court. The Constitution Bench of the Hon'ble Supreme Court in *Tulsiram Patel's case (supra)*, has reiterated the legal position and authoritatively explained the scope and ambit of Article 311(2) and the second proviso thereto. The Court has made it clear that the power under Article 311(2)(b) is an exceptional power and cannot be exercised arbitrarily or merely for the purpose of avoiding a departmental enquiry. The condition precedent for invoking Clause (b) is the existence of circumstances which render the holding of an enquiry not reasonably practicable and the recording, in writing, of reasons for the satisfaction of the disciplinary authority. It has been held as under:

"32. The arguments advanced on behalf of the government servants on the pleasure doctrine and the second proviso to Article 311 (2) may be sketched in broad outlined as under :

(1) The pleasure doctrine in England is a part of the special prerogative of the Crown and has been inherited by India from England and should, therefore, be construed strictly, that is, strictly against the Government and liberally in favour of government servants.

(2) The second proviso which withdraws from government servants the safeguards provided by clause (2) of Article 311 must be also similarly construed for, unless a liberal construction were placed upon it, great hardship would result to government servants as they could be arbitrarily thrown



(25)

out of employment and they and their dependents would be left without any means of subsistence.

(3) There are several stages before a government servant can be dismissed or removed or reduced in rank, namely, serving upon him of a show cause notice or a charge-sheet, giving him inspection of documents, examination of witnesses, arguments and imposition of penalty. An inquiry starts only after a show cause notice is issued and served upon a government servant. A show cause notice is thus preparatory to the holding of an inquiry and even if the entire inquiry is dispensed with, the giving of a show cause notice and asking for the explanation of the government servant with respect there to are not excluded.

(4) It is not obligatory upon the disciplinary authority to dispense with the whole of the inquiry. Depending upon the circumstances of the case, the disciplinary authority can dispense with only a part of the inquiry.

(5) Imposition of penalty is not a part of the inquiry and once an inquiry is dispensed with, whether in whole or in part, it is obligatory upon the disciplinary authority to give an opportunity to the government servant to make a representation with respect to the penalty proposed to be imposed upon him.

(6) Article 311 is subject to Article 14. Principles of natural justice and the audi alteram partem rule are part of Article 14 and, therefore, a show cause notice asking for the explanation of the government servant with respect to the charges against him as also a notice to show cause with respect to the proposed penalty are required to be given by Article 14 and the not giving of such notices or either of them renders the order of dismissal, removal or reduction in rank invalid.

33. *The submissions on behalf of the Union of India can be thus summarized :*

(1) The second proviso must be construed according to its terms. It is unambiguous and does not admit of any such



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interpretation as canvassed for on behalf of the government servants.

(2) Where under the second proviso, clause (2) of Article 311 is made inapplicable, there is no scope for holding any partial inquiry.

(3) In any event, the very contents of the three clauses of the second proviso show that it is not necessary or not practicable or not expedient that any partial inquiry could be or should be held, depending upon which clause applies.

(4) Article 14 does not govern or control Article 311. The Constitution must be read as a whole. Article 311(2) embodies the principles of natural justice including the audi alteram partem rule. It thus expressly states what is required under Article 14 as a result of the interpretation placed upon it by recent decisions of this Court. Once the application of clause(2) is expressly excluded by the Constitution itself, there can be no question of making applicable what has been so excluded by seeking recourse to Article 14.

(5) Consideration of sympathy for the government servants who may be dismissed or removed or reduced in rank are irrelevant to the construction of the second proviso. The doctrine of tenure at pleasure in Article 310 and the safeguards given to a government servant under clauses (1) and (2) of Article 311 as also the withdrawal of the safeguard under clause (2) by the second proviso are all enacted in public interest and where public interest conflicts with private interest, the latter must yield to the former.

The Pleasure Doctrine:

34. The concept of civil service is not now or of recent origin. Governments - whether monarchical, dictatorial or republican - have to function; and for carrying on the administration and the varied functions of the government a large number of persons are required and have always been required, whether they are constituted in the form of a civil service or not. Every kingdom and country of the world throughout history had a group of persons who helped the ruler to administer the land, whether according to modern notions



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we may call that group a civil service or not, because it is not possible for one man by himself to rule and govern the land and look after and supervise all the details of administration. As it was throughout history, so it has been in England and in India.

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The Second Proviso to Article 311(2):

60. *Clause (2) of Article 311 gives a constitutional mandate to the principles of natural justice and audi alteram partem rule by providing that a person employed in a civil capacity under the Union or a State shall not be dismissed or removed from service or reduced in rank until after an inquiry in which he has been informed of the charges against him and has been given a reasonable opportunity of being heard in respect of those charges. To this extent, the pleasure doctrine enacted in Article 310(1) is abridged because Article 311(2) is a express provision of the Constitution. This safeguard provided for a government servant by clause (2) of Article 311 is, however, taken away when the second proviso to that clause becomes applicable. The safeguard provided by clause(1) of Article 311, however, remains intact and continues to be available to the government servant. The second proviso to Article 311(2) becomes applicable in the three cases mentioned in clauses (a) to (c) of that proviso. These cases are:-*

- (a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or*
- (b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; and*
- (c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry.*

*The Construction to be placed upon the second proviso and the scope and effect of that proviso were much debated at the Bar. In **Hira Lal Rattan Lal etc. v. State of U.P. & Anr., [1973] 2 S.C.R. 502** this Court observed (at page 512) ;*



"In construing a statutory provision, the first and the foremost rule of construction is the literary construction. All that we have to see at the very outset is what does that provision say? If the provision is unambiguous and if from that provision, the legislative intent is clear, we need not call into aid the other rules of construction of statutes. The other rules of construction of statutes are called into aid only when the legislature intention is not clear. Ordinarily a proviso to a section is intended to take out a part of the main section for special treatment. It is not expected to enlarge the scope of the main section. But cases have arisen in which this Court has held that despite the fact that a provision is called proviso, it is really a separate provision and the so called proviso has substantially altered the main section."

In Commissioner of Income Tax, Madras v. Madurai Mills Co. Ltd., [1973] 3 S.C.R. 662, this Court said (at page 669):

"A proviso cannot be construed as enlarging the scope of an enactment when it can be fairly and properly construed without attributing to it that effect. Further, if the language of the enacting part of the statute is plain and unambiguous and does not contain the provisions which are said to occur in it, one cannot derive those provisions by implication from a proviso."

61. The language of the second proviso is plain and unambiguous. The key-words in the second proviso are "this clause shall not apply". By "this clause" is meant clause(2). As clause(2) requires an inquiry to be held against a government servant, the only meaning attributable to these words is that this inquiry shall not be held. There is no scope for any ambiguity in these words and there is no reason to give them any meaning different from the plain and ordinary meaning which they bear. The resultant effect of these words is that when a situation envisaged in any of the three clauses of the proviso arises and that clause becomes applicable, the safeguard provided to a government servant by clause (2) is taken away. As pointed out earlier, this provision is as much in public interest and for public good and a matter of public policy as the



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pleasure doctrine and the safeguards with respect to security of tenure contained in clauses (1) and (2) of Article 311.

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129. The next contention was that even if it is not reasonably practicable to hold an inquiry, a government servant can be placed under suspension until the situation improves and it becomes possible to hold the inquiry. This contention also cannot be accepted. Very often a situation which makes it not reasonably practicable to hold an inquiry is of the creation of the concerned government servant himself or of himself acting in concert with others or of his associates. It can even be that he himself is not a party to bringing about that situation. In all such cases neither public interest nor public good requires that salary or subsistence allowance should be continued to be paid out of the public exchequer to the concerned government servant. It should also be borne in mind that in the case of a serious situation which renders the holding of an inquiry not reasonably practicable, it would be difficult to foresee how long the situation will last and when normalcy would return or be restored. It is impossible to draw the line as to the period of time for which the suspension should continue and on the expiry of that period action should be taken under clause (b) of the second proviso. Further, the exigencies of a situation may require that prompt action should be taken and suspending the government servant cannot serve the purpose. Sometimes not taking prompt action may result in the trouble spreading and the situation worsening and at times becoming uncontrollable. Not taking prompt action may also be construed by the trouble-makers and agitators as sign of weakness on the part of the authorities and thus encourage them to step up the tempo of their activities or agitation. It is true that when prompt action is taken in order to prevent this happening, there is an element of deterrence in it but that is an unavoidable and necessary concomitance of such an action resulting from a situation which is not of the creation of the authorities. After all, clause (b) is not meant to be applied in ordinary, normal situations but in such situations where it is not reasonably practicable to hold an inquiry.



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130 The condition precedent for the application of clause (b) is the satisfaction of the disciplinary authority that "it is not reasonably practicable to hold" the inquiry contemplated by clause (2) of Article 311. What is pertinent to note is that the words used are "not reasonably practicable" and not "impracticable". According to the Oxford English Dictionary "practicable" means "Capable of being put into practice, carried out in action, effected, accomplished, or done; feasible". Webster's Third New International Dictionary defines the word "practicable" inter alia as meaning "possible to practice or perform: capable of being put into practice, done or accomplished : feasible". Further, the words used are not "not practicable" but "not reasonably practicable". Webster's Third New International Dictionary defines the word "reasonably" as "in a reasonable manner : to a fairly sufficient extent". Thus, whether it was practicable to hold the inquiry or not must be judged in the context of whether it was reasonably practicable to do so. It is not a total or absolute impracticability which is required by clause (b). What is requisite is that the holding of the inquiry is not practicable in the opinion of a reasonable man taking a reasonable view of the prevailing situation. It is not possible to enumerate the cases in which it would not be reasonably practicable to hold the inquiry, but some instances by way of illustration may, however, be given. It would not be reasonably practicable to hold an inquiry where the government servant, particularly through or together with his associates, so terrorizes, threatens or intimidates witnesses who are going to give evidence against him with fear of reprisal as to prevent them from doing so or where the government servant by himself or together with or through other threatens, intimidates and terrorizes the officer who is the disciplinary authority or member of his family so that he is afraid to hold the inquiry or direct it to be held. It would also not be reasonably practicable to hold the inquiry where an atmosphere of violence or of general indiscipline and insubordination prevails, and it is immaterial whether the concerned government servant is or is not a party to bringing about such an atmosphere. In this connection, we must bear in mind that numbers coerce and terrify while an individual may not. The reasonable practicability of holding an inquiry is a matter of assessment to be



(31)

*made by the disciplinary authority. Such authority is generally on the spot and knows what is happening. It is because the disciplinary authority is the best judge of this that clause (3) of Article 311 makes the decision of the disciplinary authority on this question final. A disciplinary authority is not expected to dispense with a disciplinary inquiry lightly or arbitrarily or out of ulterior motives or merely in order to avoid the holding of an inquiry or because the Department's case against the government servant is weak and must fail. The finality given to the decision of the disciplinary authority by Article 311(3) is not binding upon the court so far as its power of judicial review is concerned and in such a case the court will strike down the order dispensing with the inquiry as also the order imposing penalty. The case of *Arjun Chaubey v. Union of India and others*, [1984] 3 S.C.R. 302, is an instance in point. In that case, the appellant was working as a senior clerk in the office of the Chief Commercial Superintendent, Northern Railway, Varanasi. The Senior Commercial Officer wrote a letter to the appellant calling upon him to submit his explanation with regard to twelve charges of gross indiscipline mostly relating to the Deputy Chief Commercial Superintendent. The appellant submitted his explanation and on the very next day the Deputy Chief Commercial Superintendent served a second notice on the appellant saying that his explanation was not convincing and that another chance was being given to him to offer his explanation with respect to those charges. The appellant submitted his further explanation but on the very next day the Deputy Chief Commercial Superintendent passed an order dismissing him on the ground that he was not fit to be retained in service. This Court struck down the order holding that seven out of twelve charges related to the conduct of the appellant with the Deputy Chief Commercial Superintendent who was the disciplinary authority and that if an inquiry were to be held, the principal witness for the Department would have been the Deputy Chief Commercial Superintendent himself, resulting in the same person being the main accuser, the chief witness and also the judge of the matter.*

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133. The second condition necessary for the valid application of clause (b) of the second proviso is that the disciplinary authority



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should record in writing its reason for its satisfaction that it was not reasonably practicable to hold the inquiry contemplated by Article 311(2). This is a Constitutional obligation and if such reason is not recorded in writing, the order dispensing with the inquiry and the order of penalty following thereupon would both be void and unconstitutional.”

36. In ***Jaswant Singh’s case (supra)***, the Hon’ble Supreme Court has held that two conditions must necessarily be satisfied before action under Article 311(2) (b) can be sustained: first, there must exist a situation which renders the holding of an enquiry “not reasonably practicable”; and secondly, the disciplinary authority must record in writing the reasons supporting its satisfaction. It has been held as under:

“2. The appellant was placed under suspension on April 19, 1978 on the ground that he had absented himself from duty to attend the Annual Nirankari Samagam held on April 13, 1978. The allegation was enquired into through the concerned Assistant Superintendent of Police. As nothing objectionable was found he was exonerated and was ordered to be taken back in service with effect from the date of his suspension. Thereafter, two departmental enquiries were initiated against him. The outcome of the first inquiry was his reversion to the lower post of Constable; the second inquiry resulted in his dismissal from service. Both these orders of April 27, 1979 and October 12, 1979 respectively, passed by ASP/GRP, Patiala were challenged by two separate appeals. Both these appeals were dismissed by the third respondent by his orders dated March 18 and 19, 1980. The appellant preferred two separate Revision Applications to the Inspector General of Police, Punjab which were allowed on October 13, 1980 and both the cases were remanded with a direction to re-consider the inquiry report and pass fresh orders. The ASP/GRP was directed to reinstate the appellant and then issue fresh show cause notices. After the above orders were passed the appellant rejoined duties as Head Constable on March 5, 1981. The third respondent however, placed him under suspension forthwith. Thereafter, the appellant sought an interview with the



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Director General/Inspector General of Police, Punjab by his two letters dated March 23 and 27, 1981 addressed to respondent No. 3. Since respondent No. 3 refused permission the appellant claims to have written a letter dated March 24, 1981 to the DG/IGP informing him about the objectionable activities of respondent No. 3. the receipt of this letter by the office of DG/IGP is, however, disputed although the appellant has produced an acknowledgement dated March 27, 1981 evidencing the receipt thereof. Be that as it may, the fact remains that after the remand orders were passed in the appellant's two Revision Applications, the third respondent issued two separate notice, both dated April 4, 1981, calling upon the appellant to show cause within 10 days from receipt thereof why he should not be dismissed from service. Before the service of these show cause notices an incident occurred at about 11.00 a.m. on April 6, 1981 in GRP Lines, Patiala, where the appellant resided. The allegation is that on that date at the said time and place S.I., Niranjana Singh, A.S.I., Harmel Singh and A.S.I., Ram Prakash were in the verandah of barrack No. 8. In their full view the appellant appeared in the verandah with a knife in his left hand and tried to plunge the same into his chest with a view to committing suicide. S.I., Niranjana Singh, acting on impulse, gave a push to the appellant's left but in the process the blade of the knife caused an injury to the appellant on his right arm and his shirt was blood stained. The appellant was charge-sheeted u/s 309 I.P.C. and was sent to the hospital for treatment. It is alleged that while he was in hospital the two show cause notices were served on him on April 6, 1981 at about 10.00 p.m. Even though 10 days time was allowed to him to show cause, the third respondent who was biased against him passed the impugned order of dismissal on April 7, 1981. The appellant contends that the third respondent's action was clearly mala fide and actuated by ulterior motives. The appellant further contends that there was no justification for dispensing with the enquiry contemplated by Article 311(2) and the ground given in paragraph 3 of the impugned order is wholly imaginary. He further contends that the impugned order of April 7, 1981 was not actually served on him but his signature was obtained on some piece of paper while he was in hospital. According to him, after he was discharged



(34)

from the hospital he applied for a copy of the impugned order but the third respondent failed to furnish the same to him. Similar applications were also addressed to the DG/ IGP from time to time but he did not receive any reply to his letters and reminders. Since the period of limitation for filing an appeal was likely to expire he preferred his appeal without being aware of the contents of the impugned order. This appeal was dismissed by the DG/IGP by his order dated January 29, 1982. He then filed a Civil Suit in the Court of the learned Senior Sub-Judge, Patiala, wherein he applied for production of documents and secured an order for the production of a copy of the impugned dismissal order dated April 7, 1981. After a copy of the impugned order was produced he preferred another departmental appeal but that too was dismissed on February 5, 1982. After he failed to persuade the Appellate Authority to look into his grievances he filed the Writ Petition which has given rise to this appeal. The department's case found in the counter is that on the night of April 5/6, 1981. The Lines Officer had gone to check the presence of the appellant in his quarter when the latter bolted the door from inside and threatened the Lines Officer and then filed a false case that the Lines Officer had broken his window panes and had thrown stones in his room. On inquiry the complaint was found to be baseless. Thereafter, on April 6, 1981, at about 11.00 a.m. the appellant attempted to commit suicide.

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4. *Article 310 of our Constitution which engrafts the pleasure doctrine of the English common law is, however, qualified by the opening words 'except as expressly provided by this Constitution'. Article 311 is one such express provision. According to Clause (1) thereof, a person who is a member of a civil service cannot be dismissed or removed from service by an authority subordinate to that by which he was appointed. Clause (2) next provides that no such person shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. Then comes the first proviso with which we are not concerned. The second proviso has three clauses but we are*



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concerned with Clause (b) only. Clause (b) of that second proviso reads as under:

“Provided further that this clause shall not apply-

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(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry.”

Thus the English doctrine incorporated in Article 310 which is qualified by the opening words "except as expressly provided by this Constitution" is subject to Article 311(1) and (2) which contains safeguards against termination from service. However, the second proviso to Article 311(2) is again in the nature of an exception and lays down that in cases catalogued in Clauses (a), (b) and (c) thereof the requirement of an inquiry can be dispensed with. The scope of Articles 310 and 311 of the Constitution was examined by this Court in **Union of India and Anr. v. Tulsiram Patel and Ors. [1985] Su. 2 SCR 131** wherein by majority this Court held that once the requirements of the relevant clause of the second proviso are satisfied, the services of a civil servant can be terminated without following the audi alteram partem rule. It was held that since the requirement of Article 311(2) was expressly excluded by the second proviso, there was no question of introducing the same by the back door. On this line of reasoning, the majority held that **Divisonal Personnel Officer, Southern Railway & another Vs. T.R.Chellappan & others, (1976) 1 SCR 783**, was not correctly decided. It, therefore, took the view that it is not necessary to offer a hearing to the civil servant even on the limited question of punishment. Insofar as Clause (b) is concerned this Court pointed out that two conditions must be satisfied to sustain any action taken thereunder. These are (i) there must exist a situation which renders holding of any inquiry "not reasonably practicable" and (ii) the disciplinary authority must record in writing its reasons in support of its satisfaction. Of course the question of practicability would depend on the existing fact-situation and other surrounding circumstances, that is to say, that the question of reasonable practicability must be judged in the light of the circumstances



*prevailing at the date of the passing of the order. Although Clause (3) of that Article makes the decision of the disciplinary authority in this behalf final such finality can certainly be tested in a court of law and interfered with if the action is found to be arbitrary or mala fide or motivated by extraneous considerations or merely a ruse to dispense with the inquiry. Also see: **Satyavir Singh Vs. Union of India (UOI) & others, (1985) 4 SCC 252 ; Shivaji Atmaji Sawant Vs. State of Maharashtra and Others, (1986) 2 SCC 112, and Ikramuddin Ahmed Borah v. Superintendent of Police, Darrang and Ors. [1988] Su. SCC 663.***

5. The impugned order of April 7, 1981 itself contains the reasons for dispensing with the inquiry contemplated by Article 311(2) of the Constitution. Paragraph 3 of the said order, which we have extracted earlier, gives two reasons in support of the satisfaction that it was not reasonably practicable to hold a departmental enquiry against the appellant. These are (i) the appellant has thrown threats that he with the help of other police employees will not allow holding of any departmental enquiry against him and (ii) he and his associates will not hesitate to cause physical injury to the witnesses as well as the enquiry officer. Now as stated earlier after the two Revision Applications were allowed on October 13, 1980. the appellant had re-joined service as Head Constable on March 5, 1981 but he was immediately placed under suspension. Thereafter, two show cause notices dated April 4, 1981 were issued against him calling upon him to reply thereto within 10 days after the receipt thereof. Before the service of these notices the incident of alleged attempt to commit suicide took place on the morning of April 6, 1981 at about 11.00 a.m. In that incident the appellant sustained an injury on his right arm with a knife. He was, therefore, hospitalised and while he was in hospital the two show cause notices were served on him at about 10.00 p.m. on April 6, 1981. Before the appellant could reply to the said show cause notices the third respondent passed the impugned order on the very next day i.e. April 7, 1981. Now the earlier departmental enquiries were duly conducted against the appellant and there is no allegation that the department had found any difficulty in examining witnesses in the said inquiries. After the Revision Applications were allowed



(37)

the show cause notices were issued and 10 days time was given to the appellant to put in his replies thereto. We, therefore, enquired from the learned Counsel for the respondents to point out what impelled respondent No. 3 to take a decision that it was necessary to forthwith terminate the services of the appellant without holding an inquiry as required by Article 311(2). The learned Counsel for the respondents could only point out Clause (iv)(a) of sub-para 29(A) of the counter which reads as under:

“The order dated 7.4.81 was passed as the petitioner's activities were objectionable. He was instigating his fellow police officials to cause indiscipline, show insubordination and exhibit disloyalty, spreading discontentment and hatred, etc. and his retention in service was adjudged harmful.”

This is no more than a mere reproduction of paragraph 3 of the impugned order. Our attention was not drawn to any material existing on the date of the impugned order in support of the allegation contained in paragraph 3 thereof that the appellant had thrown threats that he and his companions will not allow holding of any departmental enquiry against him and that they would not hesitate to cause physical injury to the witnesses as well as the enquiry officer if any such attempt was made. It was incumbent on the respondents to disclose to the Court the material in existence at the date of the passing of the impugned order in support of the subjective satisfaction recorded by respondent No. 3 in the impugned order. Clause (b) of the second proviso to Article 311(2) can be invoked only when the authority is satisfied from the material placed before him that it is not reasonably practicable to hold a departmental enquiry. This is clear from the following observation at p. 270 of Tulsi Ram's case:

“A disciplinary authority is not expected to dispense with a disciplinary authority lightly or arbitrarily or out of ulterior motives or merely in order to avoid the holding of an inquiry or because the Department's case against the government servant is weak and must fail.”

The decision to dispense with the departmental enquiry cannot, therefore, be rested solely on the ipse dixit of the concerned authority. When the satisfaction of the concerned authority is



(38)

questioned in a court of law, it is incumbent on those who support the order to show that the satisfaction is based on certain objective facts and is not the outcome of the whim or caprice of the concerned officer. In the counter filed by the third respondent it is contended that the appellant, instead of replying to the show cause notices, instigated his fellow police officials to disobey the superiors. It is also said that he threw threats to beat up the witnesses and the Inquiry Officer if any departmental inquiry was held against him. No particulars are given. Besides it is difficult to understand how he could have given threats, etc., when he was in hospital. It is not shown on what material the third respondent came to the conclusion that the appellant had thrown threats as alleged in paragraph 3 of the impugned order. On a close scrutiny of the impugned order it seems the satisfaction was based on the ground that he was instigating his colleagues and was holding meetings with other police officials with a view to spreading hatred and dissatisfaction towards his superiors. This allegation is based on his alleged activities at Jullundur on April 3, 1981 reported by SHO/GRP, Jullundur. That report is not forthcoming. It is no one's contention that the said SHO was threatened. The third respondent's counter also does not reveal if he had verified the correctness of the information. To put it tersely the subjective satisfaction recorded in paragraph 3 of the impugned order is not fortified by any independent material to justify the dispensing with of the inquiry envisaged by Article 311(2) of the Constitution. We are, therefore, of the opinion that on this short ground alone the impugned order cannot be sustained.”

37. It is relevant to note that applying the judgment of **Tulsiram Patel's** case (supra), various cases have been decided by the Hon'ble Supreme Court indicating what may be a sufficient reason and how and in what circumstances holding a departmental enquiry is not reasonably practicable, and the scope of judicial review in such cases. In **Ex. Constable Chhote Lal's** case (supra) the Court held as thus:



(39)

“2. The appellant who was a Constable has been dismissed from service by the departmental authority without holding any inquiry and exercising power under Article 311(2), second proviso, clause (b) of the Constitution of India. Having failed in his attempt to get the order of the departmental authority annulled in appeal, the appellant approached the Central Administrative Tribunal (for short "the Tribunal") mainly contending that in the facts and circumstances of the present case, dispensation of an inquiry is not justified. The Tribunal having dismissed his application, the appellant approached the High Court by way of a writ petition and the High Court having dismissed his writ petition, the appellant is in appeal before this Court.

3. Mr Yadav, learned counsel appearing for the appellant contends that though the employer has the power to dispense with an inquiry under Article 311(2), second proviso, clause (b) of the Constitution but the conditions precedent for exercising that power have now been indicated in several decisions of this Court and in the present case, those conditions precedent cannot be said to have been satisfied. Mr. Choudhary, the learned Senior Counsel appearing for the respondents, on the other hand, contended that the appellant himself being a Police Constable could have influenced the witnesses who would have come in the departmental inquiry and if on that ground the departmental authorities apprehended that the inquiry would not be reasonable and fair, the conclusion cannot be interfered with.

4. Having examined the rival contentions of the parties and bearing in mind the law laid down by this Court indicating the circumstances under which the inquiry under Article 311(2), second proviso, clause (b) of the Constitution can be dispensed with and applying the same to the facts and circumstances and the reasons advanced by the authorities in arriving at the decision, we have no hesitation to come to the conclusion that the order dispensing with the departmental inquiry is not in accordance with law and necessarily the order of dismissal cannot be sustained. We accordingly set aside the order of dismissal passed against the appellant and permit the departmental authority to hold an inquiry if



(40)

so desired, in accordance with law and come to the conclusion in the said proceeding.

5. *Normally, an order of dismissal on being set aside, the employee can claim back wages, but in this case we are not inclined to grant back wages to the employee concerned, more so, in view of the nature of charges against him.”*

38. In the case of **Tarsem Singh’s** case (supra), the Hon’ble Supreme Court has observed that the power of dispensing with the constitutional remedy of a delinquent, should not be exercised lightly or arbitrarily, or out of ulterior motive with the intent to avoid holding an enquiry. In the said case, it has been observed as thus:

“10. It is now a well-settled principle of law that a constitutional right conferred upon a delinquent cannot be dispensed with lightly or arbitrarily or out of ulterior motive or merely in order to avoid the holding of an enquiry. The learned counsel appearing on behalf of the appellant has taken us through certain documents for the purpose of showing that ultimately the police on investigation did not find any case against the appellant in respect of the purported FIR lodged against him under Section 377 IPC. However, it may not be necessary for us to go into the said question.

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14. *In view of the fact that no material had been placed by the respondents herein to satisfy the Court that it was necessary to dispense with a formal enquiry in terms of proviso (b) appended to Clause (2) of Article 311 of the Constitution of India, we are of the opinion that the impugned orders cannot be sustained and they are set aside accordingly. The appellant is directed to be reinstated in service. However, in view of our aforementioned findings, it would be open to the respondents to initiate a departmental enquiry against the appellant if they so desire.....”*



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39. In ***Risal Singh's case (supra)***, the Hon'ble Supreme Court emphasised that, while assigning the reason in writing, it is imperative that such reason must be plausible and based on definite material. In the said case, the Court relied upon on the judgment of *Tulsiram Patel's case (supra)* and concluded as under:

"10. Tested on the touchstone of the aforesaid authorities, the irresistible conclusion is that the order passed by the Superintendent of Police dispensing with the inquiry is totally unsustainable and is hereby annulled. As the foundation founders, the order of the High Court giving the stamp of approval to the ultimate order without addressing the lis from a proper perspective is also indefensible and resultantly, the order of dismissal passed by the disciplinary authority has to pave the path of extinction.

11. Consequently, we allow the appeal and set aside the order passed by the High Court and that of the disciplinary authority. The appellant shall be deemed to be in service till the date of superannuation. As he has attained the age of superannuation in the meantime, he shall be entitled to all consequential benefits. The arrears shall be computed and paid to the appellant within a period of three months hence. Needless to say, the respondents are not precluded from initiating any disciplinary proceedings, if advised in law. As the lis has been pending before the Court, the period that has been spent in Court shall be excluded for the purpose of limitation for initiating the disciplinary proceedings as per rules. However, we may hasten to clarify that our observations herein should not be construed as a mandate to the authorities to initiate the proceeding against the appellant. We may further proceed to add that the State Government shall conduct itself as a model employer and act with the objectivity which is expected from it. There shall be no order as to costs."

40. In ***Hari Niwas Gupta v. State of Bihar & another, 2020 (3) SCC 153***, it has been held as under:



(42)

“11. Striking down and setting aside the earlier order dated 12th February, 2014 under clause (b) of the second proviso to Article 311(2) for failure to record reasons for dispensing with the departmental inquiry annuls the earlier order, which ceases to exist and stands obliterated, but does not adjudicate on the merits of the allegations so as to attract the bar of res judicata. Conscious of the seriousness of the allegations and the reason for allowing the writ petition, the Division Bench was justified in not barring the High Court from fresh application of mind and from invoking clause (b) of the second proviso to Article 311(2) if required and justified in accordance with law. The expression ‘at appropriate stage’ used by the Division Bench is not a direction for initiation of a regular departmental inquiry nor does it prohibit recourse to clause (b) to the second proviso of Article 311(2) of the Constitution in accordance with law. We do not see such fetters and restrictions placed on the High Court by the Division Bench.

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*15. The observations in our opinion are being misread as the afore-quoted portion refers to the legal position that normally departmental inquiry should be held. It also refers to the scenario where a departmental inquiry cannot be conducted that is, “when conducting of departmental enquiry was turning out to be a difficult task”, in which case a “decision could have been taken to dispense with the enquiry; by recording specific reasons”. It is observed that the principles laid down in *Tulsiram Patel (supra)* and *Tarsem Singh (supra)* have to be kept in mind. Appropriate in this regard, would be a reference to the following observations in *Tulsiram Patel (supra)*, which read:*

“130. The condition precedent for the application of clause (b) is the satisfaction of the disciplinary authority that “it is not reasonably practicable to hold” the inquiry contemplated by clause (2) of Article 311. What is pertinent to note is that the words used are “not reasonably practicable” and not “impracticable”. According to the Oxford English Dictionary “practicable” means “Capable of being put into practice, carried out in action, effected, accomplished, or done; feasible”. Webster’s Third New International Dictionary



(43)

defines the word “practicable” inter alia as meaning “possible to practice or perform: capable of being put into practice, done or accomplished: feasible”. Further, the words used are not “not practicable” but “not reasonably practicable”. Webster’s Third New International Dictionary defines the word “reasonably” as “in a reasonable manner: to a fairly sufficient extent”. Thus, whether it was practicable to hold the inquiry or not must be judged in the context of whether it was reasonably practicable to do so. It is not a total or absolute impracticability which is required by clause (b). What is requisite is that the holding of the inquiry is not practicable in the opinion of a reasonable man taking a reasonable view of the prevailing situation.”

Thus, the authorities to invoke the power under clause (b) to the second proviso of Article 311(2) to dispense with a departmental inquiry must record a finding that such an inquiry cannot be conducted and record specific reasons for the same. In this case, the Division Bench had recorded the contention of the respondent- High Court as the disciplinary authority that it would be impossible to assimilate, collect and produce direct evidence and material as the acts and misdeeds were in another country. The Division Bench having found that reasons had not been recorded for dispensing with the inquiry, has neither accepted nor rejected this contention of the High Court. It will not be appropriate and correct to interpret the decision of the Division Bench by reading one or more sentences of a paragraph in isolation. The entire judgment has to be read to understand the ratio and finding and the observations must be read in the context in which they have been made.

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19. *During the course of hearing before us, it was pointed out that the Full Court had subsequently again recommended dismissal of the judicial officers dispensing with the departmental inquiry in the exercise of power under clause (b) of the second proviso to Article 311(2) of the Constitution vide recommendation dated 13th August 2015. However, the matter is pending with the State Government and we were informed that no final order has been passed in view of the stay order dated 11th September 2015 passed*



(44)

by this Court. It was also initially urged and argued that the order of dismissal under clause (b) of the second proviso to Article 311(2) of the Constitution cannot be passed against the officer who has retired. We were informed that the other two officers had also retired during the pendency of the present appeals. Therefore, at best the pensionary and retirement benefits can be forfeited and denied, but an order of dismissal from service by invoking powers under clause(b) of the second proviso to Article 311(2) cannot be passed against the appellants - judicial officers. Subsequently, the counsel for the appellants - judicial officers did not press this contention as the matter is still pending before the State authorities, and the final order is yet to be passed. A challenge cannot be made in anticipation. Further, this challenge was also not the subject matter of the writ petitions in which the impugned order was passed and would constitute an entirely new cause of action. Counsels for the appellants - judicial officers have, accordingly, reserved their right to challenge the order if, and as and when it is passed. In view of the aforesaid position, we would not go into the merits of the said contention and leave the issue open. It is equally open to the respondents, that is, the State of Bihar and the High Court to examine this contention.

20. *Recording the aforesaid, the appeals are dismissed and the stay order is vacated, albeit we clarify that the respondents, in terms of the judgment passed by the Division Bench, would be required to proceed in accordance with law. We also clarify that we have expressed no opinion on the merits of the allegations made against the three judicial officers. There would be no order as to costs."*

41. In view of the settled proposition of law, as discussed above, and on overall analysis of the intent of Article 311(2) of the Constitution, it is vivid that an employee can only be dismissed or removed or reduced in rank after an inquiry by supplying the charges against him and giving a reasonable opportunity of being heard in respect of those charges, however, the applicability of the exceptional proviso of clause (b) of second proviso to Article 311 (2) of Constitution of India is restricted to a situation, wherein



(45)

conduct of the delinquent led to his conviction of criminal charges or where the authority empowered who dismissed, removed or reduced in rank, records reason in writing upon satisfaction that it is not 'reasonably practicable' to hold an enquiry against him. The disciplinary authority must not dispense with an enquiry merely on the basis of its subjective satisfaction or by mechanically reproducing the language of Article 311(2)(b) of the Constitution. The reasons must demonstrate the existence of circumstances which genuinely render the holding of the enquiry impracticable. Ordinarily, circumstances such as witnesses being unwilling to depose on account of threats, intimidation or coercion may constitute relevant considerations. However, the mere seriousness of the allegations or the possibility that the delinquent employee may not cooperate cannot, by itself, satisfy the constitutional requirement. The wording as used in clause (b) of the second proviso indicates the satisfaction of the Disciplinary Authority by using the word "it is not reasonably practicable to hold" the inquiry contemplated by clause (2) of Article 311. The Hon'ble Supreme Court emphasized the meaning of "not reasonably practicable" as juxtaposed against not "impracticable". The Hon'ble Supreme Court clarified that the disciplinary authority is not expected to dispense with a departmental inquiry lightly or arbitrarily or out of ulterior motives or merely in order to avoid the holding of an inquiry or because the Department's case against the government servant is weak and may fail. Further, the Court emphasised the words used in clause (b) of second proviso that the disciplinary authority should record its reasons in writing for its satisfaction that holding an inquiry is not reasonably practicable. In case, such reason is not recorded in writing or not valid and justifiable, the order dispensing with the inquiry and



(46)

the order of penalty flowing therefrom would be void and unconstitutional. In that situation, it remains always open to the Court to take the case out of purview of that clause and the order of penalty would stand invalidated.

42. This Court has also noticed the manner in which the State of Punjab has invoked Article 311(2)(b) of the Constitution in a large number of cases. In **CWP-13285-2022** titled '**Ex. Constable Vikas No.950/FZR Vs. State of Punjab & others**' this Court, vide order dated 04.07.2022, observed as under:

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This Court has noticed while dealing with the current roster, that a large number of writ petitions are being filed against the order of dismissal invoking Article 311(2)(b) of the Constitution of India. The competent authorities are ignoring the law as settled by the Supreme Court regarding dismissal of an employee under Article 311(2)(b) of the Constitution of India, which leads to the impugned orders being set aside.

It might be appropriate for the State Governments to look into this issue and apprise the competent authorities about the relevant case law pertaining to invoking Article 311(2)(b) of the Constitution of India at the time of seeking to summarily dismiss the Government employees.

Let a copy of this order be conveyed to the Chief Secretaries of the States of Punjab and Haryana as well as the Advisor to Administrator, U.T., Chandigarh.”

43. In compliance of said directions, the office of the Director General of Police, Punjab, Chandigarh, issued guidelines/instructions dated 02.09.2022, which reads thus:

“Subject:- *Guidelines/Instructions for compliance of the Orders of the Hon'ble Punjab and Haryana High Court, pertaining to invoking Article 311 (2) (B) of the Constitution of India in cases involving dismissal of an employee/official.*

Memo



(47)

1. *In this regard, the Hon'ble Punjab and Haryana High Court has issued directions in the Civil Writ Petition 13285 of 2022 titled as Ex Constable Vikas No. 950/FZR Vs State of Punjab and others on 04.07.2022 that:-*

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2. *That in compliance with the aforesaid directions of the Hon'ble High Court, this office is issuing guidelines/instructions for the basic understanding of the Article 311 (2) (b) while invoking the same in cases of dismissal, removal or reduction in rank of the employee/official. It has been seen in many cases that the order passed by the Competent Authorities under Article 311 (2) (b) have failed in the Hon'ble Courts and the Hon'ble Courts have set aside such dismissal order of the personnels time and again and reinstated them in service. The Hon'ble Courts have also observed in numerous cases that decision to dispense with the departmental enquiry cannot be rested solely on the ipse dixit of the concerned authorities. It is well settled proposition of law that due reasons are necessary to be recorded in writing as to why it was not practicably possible to conduct an enquiry.*

3. *That the Hon'ble Supreme Court of India and Hon'ble High Courts, in catena of judgments have specifically made clear that order of dismissal is not to be passed in a mechanical manner. It has also been held that only in cases where disciplinary authorities are satisfied on the basis of material available on file that the case is of such a nature that it is not practicable possible to hold an enquiry in view of threat, inducement, affiliation with criminals etc. that article 311(2) (b) of Constitution of India, is to be invoked.*

4. *That the Hon'ble Supreme Court of India and High Courts have delivered various judgments on the interpretations of Article 311 (2) (b). Few are mentioned here and are required to be followed in letter and spirit while dealing in cases involving Article 311 (2) (b) of the Constitution of India.*

1. *The Hon'ble Supreme Court of India in Union of India Vs Tulsi Ram Patel & others, judgment dated 11.07.1985 is well traversed and has clarified the constitutional provisions as embodied in Article 311(2) of the Constitution. The judgment is detailed and is a*



(48)

settled law pertaining to matters involving article 311(2)(b) of the Constitution of India.

2. *In CWP No.15903 titled as Dinesh Singh Vs State of Punjab & others decided on 30.08.2016, the Hon'ble Court has held "Constitution of India, 1950 Article 311 (2) due reasons are necessary to be recorded as to why it was not practicably possible to conduct an enquiry or how it was not convenient to authority or inquiry officer to conduct an enquiry-said provisions are attracted by exercising extraordinary powers under extraordinary circumstances- absence of extraordinary circumstances while invoking provisions of article 311 (2) (b) can be termed as misuse of power and as such, action of the authority is not sustainable in the eyes of law.*
3. *The Hon'ble Punjab & Haryana High Court in CWP No. 10423 of 2020 titled Sarabjit Singh Vs State of Punjab & others has held that authority chose to dismiss petitioner without holding Inquiry- careful reading of the impugned order shows that there is total absence of reasons in this regard- mere observation that departmental enquiry at this stage does not appear to be justified is not sufficient to invoke powers under clause (b) of the 2nd proviso to article 311(2) of the Constitution of India. Petitioner directly to be re-instated.*
5. *It should also be ensured that recording in writing of the reasons for dispensing with the enquiry must precede an order imposing the penalty. Legally speaking the reasons for dispensing with the enquiry need not find place in the final order itself though they should be recorded separately in the relevant file. In spite of this legal position, it would be of advantage to incorporate the reasons which lead the disciplinary authority to the conclusion that it was not reasonably practicable to hold an enquiry. The reasons so given should not be vague or they should not be just a repetition of the language of the relevant rules.*



(49)

6. That the aforementioned guidelines/instructions and the relevant detailed case laws are to be examined and followed by the concerned disciplinary authority while invoking article 311(2)(b) Constitution of India. These guidelines/instructions alongwith relevant case laws are to be strictly adhered and their meticulous compliance is to be ensured.”

44. It has also been noticed by this Court that, in a number of cases, Police Officers/Officials have been dismissed from service by invoking the provisions of Article 311(2)(b) of the Constitution merely on account of registration of an FIR against them. In the present case, despite issuance of two show-cause notices dated 19.09.2024 (Annexure P-11) and 14.10.2024 (Annexure P-14) proposing initiation of departmental proceedings against the petitioner; followed by his suspension, vide order dated 25.10.2024 (Annexure P-16) and issuance of a charge-sheet dated 25.10.2024 (Annexure P-17), the respondents proceeded to dismiss the petitioner by invoking Article 311(2)(b) of the Constitution and dispensing with the holding of a regular departmental enquiry.

45. The stand taken up by the respondents for dispensing with the enquiry essentially rests upon the alleged non-cooperation of the petitioner and his alleged failure to receive the charge-sheet. Even assuming, for the sake of argument, that the petitioner had initially failed to receive the complete charge-sheet, such conduct, by itself, could not justify dispensing with the enquiry under Article 311(2)(b) of the Constitution. The disciplinary authority has adequate remedies under the applicable service rules if a delinquent employee, after due service, fails to participate in the departmental proceedings. The employee cannot frustrate a departmental enquiry merely by remaining absent or declining to participate. Subject to



the applicable rules, the enquiry can proceed *ex parte*. Therefore, mere non-cooperation or absence of the delinquent employee, cannot be elevated to a circumstance rendering the holding of an enquiry constitutionally impracticable. Mere recital in the order that an inquiry is not reasonably practicable would not, by itself, be sufficient. The competent authority must demonstrate a real and proximate nexus between the circumstances prevailing at the relevant time and the inability to hold departmental enquiry.

46. In the present case, the conduct of the petitioner, as borne out from the record, assumes considerable significance. The first show-cause notice was issued to him on 19.09.2024 (Annexure P-11), to which he submitted his reply on 25.09.2024 (Annexure P-12). Thereafter, a second show-cause notice was issued on 14.10.2024 (Annexure P-14), to which the petitioner submitted an interim reply dated 17.10.2024 (Annexure P-15) and also sought supply of the necessary documents to enable him to furnish an effective response. Subsequently, he was placed under suspension vide order dated 25.10.2024 (Annexure P-16) and a charge-sheet dated 25.10.2024 (Annexure P-17) was also issued to him on the same day. Thus, the record does not show any instance where the petitioner had disappeared from the proceedings or had rendered himself completely unavailable to the department. On the contrary, the record reveals that the petitioner had participated in the proceedings at the initial stage, had submitted replies to the show-cause notices and had sought documents for furnishing an effective response. In such circumstances, the subsequent allegation of non-cooperation was required to be examined before the extraordinary power under Article 311(2)(b) could be invoked.



(51)

47. In the present case, there is no allegation that the petitioner had threatened or intimidated the witnesses. There is no material placed before this Court to show that any witness had expressed unwillingness to depose against the petitioner on account of any threat or coercion attributable to him. There is also no material to suggest that the petitioner had attempted to tamper with evidence or interfere with the functioning of the Enquiry Officer. The respondents have not identified any particular witness who could not be examined on account of any conduct of the petitioner.

48. The learned State counsel has placed wholesome reliance upon the report dated 09.10.2024 (Annexure R-3) submitted by the Special Investigation Team (SIT), headed by Shri Prabodh Kumar, IPS, Spl. DGP, Punjab State Human Rights Commission and Head, SIT, wherein the role of each of the delinquent officers/officials has been noticed and recommendations to the following effect have been made:

“Recommendations:

Based on the aforesaid facts revealed during the investigation of FIR No.01/2024 of Police Station State Crime, SAS Nagar, the following recommendations are made:

1. **Appropriate departmental action may be initiated against the aforementioned and named police officers, regarding their misconduct, negligence, and dereliction of their duties, while being entrusted with the safe custody of accused Lawrence Bishnoi at the premises of CIA, Kharar, during the night intervening 03/04.09.2022.**
2. Appropriate action may also be taken to address the systemic failures and shortcomings in the functioning of AGTF, as thrown up during the investigation and highlighted in this Note.
3. Regarding the role and conduct of Sh. Jagwinder Patial as revealed during investigation, a view may be taken



(52)

for initiating action as deemed fit by the competent authority.

Sd/-
(Nilambari Vijay Jagdale, IPS)
DIG Ropar Range-cum-
Member, SIT

Sd/-
(Prabodh Kumar, IPS)
Spl/DGP Punjab State Human
Rights Commission and Head, SIT”

49. The said report can only be considered akin to the preliminary enquiry report particularly the same also concludes with the recommendations that appropriate departmental action may be initiated against the named police officers/officials regarding their alleged misconduct, negligence and dereliction of their duties. The said report could not, by itself, constitute conclusive proof or substantive evidence warranting the dismissal of the petitioner from service by invoking Article 311(2)(b) of the Constitution, particularly when he had not been afforded an opportunity of participating in a regular departmental enquiry. The very nature of the SIT report, therefore, could not dispense with the requirement of a regular departmental enquiry, unless the competent authority independently recorded a valid and sustainable satisfaction that holding such an enquiry was not reasonably practicable, as contemplated under Article 311(2)(b) of the Constitution.

50. There is yet another circumstance which renders the action of the respondents unsustainable. The Enquiry Officer, namely, Mr. Justice Rajiv Narain Raina, former Judge of this Court, was appointed to conduct a joint departmental enquiry against nine officers/officials arising out of the same occurrence, namely, (i) Sh. Vivek Sheel Soni, IPS, SSP, SAS Nagar; (ii) Sh. Samar Vaneet, PPS, the then DSP, PBI/EOW, SAS Nagar; (iii) Inspector Shiv Kumar, the then In-charge, CIA, Kharar, SAS Nagar; (iv) Sub Inspector Reena, CIA, Kharar, SAS Nagar; (v) Sub Inspector (LR) Jagatpal



(53)

Jangu, AGTF, Punjab; (vi) Sub Inspector (LR) Shaganjit Singh, No. 531/W, AGTF, Punjab; (vii) ASI Mukhtiar Singh, No. 511/SAS, the then Duty Officer; (viii) HC (LR) Om Prakash, No. 1131/SAS Nagar, the then Night MHC, CIA Kharar, SAS Nagar; and (ix) Sh. Amandeep Singh Brar, PPS, ADCP, Investigation, Ludhiana, the then SP (Investigation), SAS Nagar, Mohali. The departmental enquiry against these officers/officials is continuing. If the circumstances were such that holding an enquiry was genuinely impracticable, the respondents were required to explain how the same circumstances ceased to operate qua the other delinquent officers. If the enquiry could be conducted against the other officers in respect of the same occurrence, the respondents were required to demonstrate some additional circumstance peculiar to the petitioner which made an enquiry against him impracticable. No such circumstance has been shown.

51. At this juncture, the subsequent conduct of the petitioner also assumes significance. Even after passing of the impugned order of dismissal dated 02.01.2025 (Annexure P-26), the Presenting Officer issued letter dated 23.09.2025 (Annexure P-30), calling upon the petitioner and the other eight officers/officials of the Police Department, against whom the departmental enquiry had been initiated, to appear before the Enquiry Officer, namely, Mr. Justice Rajiv Narain Raina, former Judge of this Court, on 28.09.2025 at 11.30 a.m. Pursuant thereto, the petitioner, through his counsel, submitted an application dated 11.10.2025 seeking a copy of the charge-sheet. In response, a copy of the charge-sheet, along with copies of the show-cause notices dated 19.09.2024 and 14.10.2024, was supplied to him vide letter dated 13.10.2025 (Annexure P-31), and he was directed to submit his reply by 01.11.2025. Thereafter, the petitioner, along with his counsel, appeared



(54)

before the Enquiry Officer through virtual mode on 01.11.2025 and submitted his reply dated 01.11.2025 to the charge-sheet (Annexure P-32). The enquiry proceedings were thereafter adjourned to 06.12.2025, 05.03.2026 and 14.03.2026, on which dates also the petitioner appeared before the Enquiry Officer through virtual mode, while his counsel appeared physically. It was only on 03.05.2026 that the proceedings qua the petitioner were closed, after noticing that he had already been dismissed from service by invoking Article 311(2)(b) of the Constitution. The subsequent conduct of the petitioner is wholly inconsistent with the assertion that he was unwilling to participate in, much less obstruct, the departmental proceedings to such an extent that it was not reasonably practicable to hold an enquiry against him. On the contrary, his conduct demonstrates that, when afforded an opportunity to participate in the proceedings and supplied with the requisite documents, he appeared before the Enquiry Officer and submitted his reply to the charge-sheet. Thus, the subsequent course of the proceedings materially belies the very basis on which the respondents sought to invoke the extraordinary power under Article 311(2)(b) of the Constitution.

52. The aforesaid sequence of events demonstrates that there was, in fact, no impediment in conducting the departmental enquiry against the petitioner, particularly when the petitioner actually participated in the enquiry proceedings and continued to do so on subsequent dates. In such circumstances, the respondents cannot, on the one hand, contend that holding an enquiry against the petitioner was not reasonably practicable and, on the other hand, themselves proceed with the very same enquiry after his dismissal.



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53. The differential treatment assumes significance because the same set of allegations and the same occurrence constitute the foundation of the proceedings against the petitioner as well as the other delinquent officials. In the absence of any distinguishing circumstance peculiar to the petitioner, the invocation of Article 311(2) (b) only against the petitioner cannot be sustained.

54. It is also apt to state here that the State Government itself, through the guidelines/instructions dated 02.09.2022, issued by the office of the Director General of Police, Punjab, had drawn the attention of the competent authorities to the settled legal position that orders under Article 311(2)(b) of the Constitution should not be passed mechanically and that reasons for dispensing with the enquiry must be supported by material available on record. The said guidelines specifically caution that the decision to dispense with a departmental enquiry cannot rest merely upon the *ipse dixit* of the competent authority and that the reasons must not be vague or merely reproduction of the language of the relevant constitutional provision.

55. The gravity of the allegations levelled against the petitioner may undoubtedly furnish sufficient justification for placing him under suspension and initiating disciplinary proceedings. However, the seriousness of the allegations, by itself, cannot be treated as a substitute for the constitutional requirement embodied in Article 311(2)(b) of the Constitution. The question before this Court is not whether the allegations against the petitioner are grave or serious, but whether, on the date of passing of the impugned order dated 02.01.2025 (Annexure P-26), there existed circumstances rendering the holding of a departmental enquiry not reasonably practicable. The respondents were, therefore, required to



(56)

demonstrate some additional and peculiar circumstance, attributable to the petitioner, which made it impracticable to conduct a regular departmental enquiry against him. In the absence of any such circumstance, the mere gravity of the allegations could not justify dispensing with the enquiry contemplated under Article 311(2) of the Constitution. The respondents have failed to establish the existence of any such circumstance.

56. While considering the provisions of Article 311(2)(b) vis-à-vis Punjab Police Rules, 1934, a Coordinate Bench in ***Baljinder Singh v. State of Punjab & others***, (CWP-8612-2021 decided on 13.05.2024), observed as under:

“3. Mr. Anupam Bhardwaj, Advocate submits that there was no occasion to dispense with mandatory inquiry contemplated by Article 311 of Constitution of India read with Rule 16.24 of the 1934 Rules. The respondents acting in a mechanical manner dispensed with inquiry and dismissed the petitioner from service. The co-accused was initially suspended and he has been re-instated.

4. Per contra, Mr. Pawan Kumar, DAG, Punjab submits that petitioner accepted illegal gratification from accused in aforementioned FIRs, thus, it was indispensable to dismiss him from service. It was not possible to conduct inquiry, thus, he was dismissed without conducting inquiry.

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8. The reason advanced by SSP for dispensing with inquiry is not the actual reason because same reason has been advanced in every case where there is FIR against serving police officer. The respondent can dispense with inquiry if actually it is not practicable to hold inquiry. Mere writing one line in the impugned order that it is not practicable to hold inquiry is not compliance of mandate of either Constitution of India or Rule 16.24 of the Punjab Police Rules. The respondent



(57)

instead of straight away dismissing the petitioner could put him under suspension and thereafter conduct inquiry. This course was adopted in the case of co-accused, thus, there was no reason to adopt different course in the case of petitioner. It is interesting to note that FIR was registered against the petitioner as well as HC Jatinder Singh and he has been re-instated before awaiting conclusion of criminal proceedings.

9. *In the wake of above discussion and findings, this Court is of the considered opinion that respondents without any logical reason dispensed with mandatory inquiry. The impugned orders deserve to be set aside and accordingly set aside.*

It is made clear that petitioner, as conceded, shall not be entitled to back wages. The respondent shall be free either to conduct departmental inquiry after following due procedure prescribed by Punjab Police Rules or take appropriate decision after conclusion of criminal proceedings.”

57. In **Rakesh Kumar v. State of Punjab & others, (CWP-14712-2017 decided on 25.04.2022)**, this Court observed as under:

“8. *The petitioners were appointed as Constables with the Punjab Police and were dismissed from service by invoking Article 311(2) (b) of the Constitution of India as FIR No.74 dated 25.07.2014, under Section 384 of the IPC and Section 7 and 8 of the Prevention of Corruption Act, 1988 came to be registered against them. The date of dismissal is the same date as the date of registration of the FIR. While dismissing a government servant under Article 311 (2) (b), the appropriate disciplinary authority has to record reasons in writing that it does not consider it reasonably practicable to give to the person an opportunity of showing cause. The satisfaction under this clause has to be of the disciplinary authority that has the power to dismiss, remove or reduce the Government servant in rank. As a check against an arbitrary use of this exception, it has been provided that the reasons for which the competent authority decides to do away with the prescribed procedure must be recorded in writing setting out why it would not be practicable.*



(58)

9. *On perusal of impugned order of termination, it is apparent that no reasons whatsoever have been recorded to show as to how the provisions of Article 311 (2) (b) have been attracted. A reading of the impugned order would show that the reason for dispensing of holding a regular enquiry is that a finding is given that no witness is likely to come forth to depose and that the petitioner has a criminal mentality, but there is no material available to support this ground.*

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11. *The law in this regard is no longer res intergra, as can be noticed from the judgements as cited above. Therefore the impugned orders would not be sustainable.*

12. *Another reason for setting aside the impugned orders is that a co-accused in the FIR, who was also dismissed by the authorities while dispensing with regular enquiry, had filed an appeal before the Additional Chief Secretary Government of Punjab, Department of Home Affairs and Justice and the said appeal was allowed holding that it was not fair to dismiss the appellant with hearing and that departmental proceedings were liable to be initiated. The appellant Harjap Singh stood reinstated and the period from date of dismissal till reinstatement was to be treated as Non Duty Period. The petitioners who are similarly situated as said Harjap Singh, too should be given an opportunity of hearing.*

13. *Consequently the writ petitions are allowed and the impugned order dismissing the petitioners from service vide order 25.07.2014 (Annexure P-3) and the orders passed on the statutory appeal dated 02.03.2016 (Annexure P-6), by respondent No.4 and order dated 16.04.2016 (Annexure P-8) passed by respondent No.3 in revision, are set aside leaving it open to the department to take departmental action against the petitioners in accordance with law, if needed."*

58. The power under Article 311(2)(b) cannot, therefore, be invoked merely because the disciplinary authority apprehends that the delinquent employee may not cooperate with the proceedings. There must exist some objective circumstance which makes a fair enquiry genuinely impracticable. Circumstances, such as, threats, intimidation or coercion of



(59)

witnesses, interference with the Enquiry Officer, or tampering with evidence may ordinarily furnish a valid basis. However, no such circumstance has been demonstrated in the present case.

59. Learned senior counsel has also assailed the impugned action on the ground that the decision to dismiss the petitioner had, in fact, already been taken even before the impugned order dated 02.01.2025 (Annexure P-26) came to be passed. In support of the said contention, reliance has been placed upon the statement of the learned Advocate General recorded in the order dated 16.12.2024 passed in CWP-PIL-93-2023. Learned senior counsel has further placed reliance upon the judgment of the Hon'ble Supreme Court in *Oryx Fisheries Pvt. Ltd. v. Union of India, (2010) 13 SCC 427*, wherein the Hon'ble Supreme Court, while emphasizing the requirement of fairness in proceedings having civil consequences, held as under:

“28. It is no doubt true that at the stage of show cause, the person proceeded against must be told the charges against him so that he can take his defence and prove his innocence. It is obvious that at that stage the authority issuing the charge- sheet, cannot, instead of telling him the charges, confront him with definite conclusions of his alleged guilt. If that is done, as has been done in this instant case, the entire proceeding initiated by the show cause notice gets vitiated by unfairness and bias and the subsequent proceeding become an idle ceremony.

29. Justice is rooted in confidence and justice is the goal of a quasi-judicial proceeding also. If the functioning of a quasi- judicial authority has to inspire confidence in the minds of those subjected to its jurisdiction, such authority must act with utmost fairness. Its fairness is obviously to be manifested by the language in which charges are couched and conveyed to the person proceeded against. In the instant case from the underlined portion of the show cause notice it is clear that the third respondent has demonstrated a totally



(60)

close mind at the stage of show cause notice itself. Such a close mind is inconsistent with the scheme of Rule 43 which is set out below. The aforesaid rule has been framed in exercise of the power conferred under Section 33 of the Marine Products Export Development Authority Act, 1972 and as such that Rule is statutory in nature.

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31. It is of course true that the show cause notice cannot be read hyper-technically and it is well settled that it is to be read reasonably. But one thing is clear that while reading a show-cause notice the person who is subject to it must get an impression that he will get an effective opportunity to rebut the allegations contained in the show cause notice and prove his innocence. If on a reasonable reading of a show-cause notice a person of ordinary prudence gets the feeling that his reply to the show cause notice will be an empty ceremony and he will merely knock his head against the impenetrable wall of prejudged opinion, such a show cause notice does not commence a fair procedure especially when it is issued in a quasi- judicial proceeding under a statutory regulation which promises to give the person proceeded against a reasonable opportunity of defence.

32. Therefore, while issuing a show-cause notice, the authorities must take care to manifestly keep an open mind as they are to act fairly in adjudging the guilt or otherwise of the person proceeded against and specially when he has the power to take a punitive step against the person after giving him a show cause notice.

33. The principle that justice must not only be done but it must eminently appear to be done as well is equally applicable to quasi judicial proceeding if such a proceeding has to inspire confidence in the mind of those who are subject to it.

34. A somewhat similar observation was made by this Court in the case of Kumaon Mandal Vikas Nigam Limited v. Girja Shankar Pant & others, (2001) 1 SCC 182. In that case, this court was dealing with a show cause notice cum charge-sheet issued to an employee. While dealing with the same, this Court in paragraph 25 (page 198 of the report) by referring to the language in the show cause notice observed as follows:



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"25. Upon consideration of the language in the show-cause notice-cum-charge-sheet, it has been very strongly contended that it is clear that the Officer concerned has a mindset even at the stage of framing of charges and we also do find some justification in such a submission since the chain is otherwise complete.""

60. Bearing in mind the aforesaid principles, the facts where the respondents have sought to justify the invocation of Article 311(2)(b) of the Constitution on the premise that the petitioner had deliberately evaded service of the charge-sheet and, consequently, it was not reasonably practicable to hold a departmental enquiry against him, give rise to a serious doubt as to whether the decision-making process was, in fact, fair, objective and uninfluenced by any prior determination of the outcome. If the decision to dismiss the petitioner had already been taken before the impugned order came to be passed, the subsequent invocation of Article 311(2)(b) of the Constitution cannot be permitted to operate as a mere justification for dispensing with the departmental enquiry. Even otherwise, the very foundation of the respondents' conclusion that the petitioner had deliberately evaded service of the charge-sheet is rendered doubtful by the manner in which the charge-sheet was sought to be served. The respondents were aware of the petitioner's permanent address at Jalandhar and that the communications preceding the issuance of the charge-sheet had been duly served upon him. Despite being in possession of his correct and known address, the charge-sheet dated 25.10.2024 was sent to the petitioner's old address at Chandigarh, from where he had already been transferred. In such circumstances, the mere fact that the charge-sheet could not be served at the said address could not, by itself, furnish any basis for recording a conclusion that the petitioner had deliberately evaded service or had refused to



(62)

participate in the disciplinary proceedings. Nothing has been placed on record to demonstrate that any genuine attempt was made to serve the charge-sheet upon the petitioner at his known permanent address at Jalandhar or through any other mode available in law. There is also no material to suggest that the petitioner had created a situation in which the holding of a departmental enquiry had become impracticable. Non-service of the charge-sheet at an address from which the petitioner had already been transferred cannot be equated with deliberate evasion of service, particularly when the respondents themselves were aware of his correct address and set the disciplinary machinery in motion by issuing show-cause notices dated 19.09.2024 (Annexure P-11) and 14.10.2024 (Annexure P-14), as well as charge-sheet dated 25.10.2024 (Annexure P-17). Once the department had considered it feasible to initiate and proceed with regular disciplinary proceedings, the subsequent decision to abandon that course and resort to Article 311(2)(b) of the Constitution required the existence of a subsequent or newly arisen circumstance making the enquiry not reasonably practicable. The impugned order does not demonstrate the existence of any such circumstance.

61. Consequently, this Court has no hesitation in holding that the satisfaction recorded by the competent authority for dispensing with the departmental enquiry does not meet the constitutional standard prescribed under Article 311(2)(b) of the Constitution. The impugned order dated 02.01.2025 (Annexure P-26), whereby the petitioner has been dismissed from service by dispensing with the regular departmental enquiry, is accordingly liable to be set aside.



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62. As a result, the present writ petition is allowed. The impugned order dated 02.01.2025 (Annexure P-26) is hereby quashed. The respondents are hereby directed to reinstate the petitioner in service with all consequential benefits.

63. However, the setting aside of the impugned order dated 02.01.2025 (Annexure P-26) and direction for reinstatement shall be without prejudice to the right of the respondents to take recourse in accordance with law, by continuing with the departmental enquiry, which was pending against petitioner and other officers/officials before the Enquiry Officer, namely, Mr. Justice Rajiv Narain Raina, former Judge of this Court.

64. Pending application(s), if any, also stands disposed of.

01.09.2026

Vimal/Manoj

**(NAMIT KUMAR)
JUDGE**

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