2025:AHC:164235

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RESERVED

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 3471 of 2025

Smt. Meena Singh .....Petitioner(s)

Versus

State of U.P. And 3 Others .....Respondent(s)

Counsel for Petitioner(s)	:	Aishwarya Pratap Shahi, Nipun Singh
Counsel for Respondent(s)	:	Ashish Kumar Singh, Ashutosh Mishra, C.S.C.

Court No.-52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. The petitioner has preferred the present writ petition challenging an order dated 14.12.2024 passed by the Registrar, Gautam Buddha University, Greater Noida, Gautam Budh Nagar, whereby her services from the post of Private Secretary, have been terminated.

2. Facts of the case are that initially, the petitioner was appointed as Private Secretary[1] to Vice Chancellor, Gautam Buddha University, Greater Noida, Gautam Budh Nagar[2], on contractual basis on 08.07.2010. At the time of appointment, the petitioner was fully eligible for the post of PS as she was having M.Phil, M.Ed. and M.A. Degrees along with four years of experience. Her services were regularized by an order of the Vice Chancellor dated 13.04.2018. Later, the petitioner being eligible for promotion, was promoted vide order dated 18.09.2018 as Staff Officer to Vice Chancellor.

1 PS (Wrongly mentioned as 'Personal Secretary in the writ petition', though it should be 'Private Secretary' as mentioned in Rule 4(b) of the Regulations For Non-Teaching Staff of Gautam Buddha University, Greater Noida)

2 The University

The eligibility for promotion to the post of Staff Officer is 'Graduation', five years of continuous service in Gautam Buddha University in the Grade Pay of Rs. 4800 and good record of work.

3. The petitioner has been discharging her duties with utmost sincerity and devotion. She carried an impeccable reputation in the University. During her service period from 2010 to 2017, out of eight years, in seven she was awarded 'outstanding' remark in her annual assessment record and for one year as 'good'.

4. On 18.08.2020, the petitioner was suspended mentioning about a legal notice of one Vishnu Pratap Singh moved through Amit Kumar Agarwal, Advocate, alleging irregularities in her appointment as Private Secretary and promotion as Staff Officer. Aggrieved by the suspension order, the petitioner preferred **Civil Misc. Writ Petition No. 7156 of 2020**[3]. Initially, the Court directed the University to file a counter affidavit and no interim order was granted. Finally, writ petition came to be disposed of with certain directions, on 21.09.2022.

5. Meanwhile, Sri S.N. Tiwari, the then Officiating Registrar, lodged a first information report against the petitioner through an application moved under Section 156(3) Cr.P.C., bearing Case Crime No. 166 of 2020, under Sections 420, 467, 468, 471 IPC. Aggrieved thereby, the petitioner preferred **Criminal Misc. Writ Petition No. 16275 of 2020**[4], which was dismissed as not-pressed on 05.01.2021. Thereafter, the petitioner filed **Criminal Misc. Anticipatory Bail Application U/s 438 Cr.P.C. No. 4389 of 2021**, which was allowed by order dated 06.04.2021. The matter was investigated and ultimately a final report was submitted in the said case, on 09.07.2021.

6. In terms of the suspension order, an enquiry committee comprising three faculty members, was constituted by an order dated 21.08.2020. Said

3 Smt. Meena Singh v. State of U.P. and 3 Others
4 Meena Singh v. Stae of U.P. & 2 Others

order was appended with ‘terms of reference’ which mentioned five articles on the basis of charges levelled against the petitioner.

7. On 27.10.2020, the Vice Chancellor substituted the enquiry committee by appointing a single-member enquiry committee, who again served a new charge-sheet upon the petitioner. The petitioner made a request to the Presenting Officer through an e-mail dated 31.10.2020 requesting for providing supportive documents mentioned in Annexure-II to the said order dated 27.10.2020.

8. The petitioner submitted her first reply before the enquiry officer on 09.11.2020. On 21.12.2020, the enquiry officer was changed and in place of Dr. Sumati Verma, Sri Ravi Kant Sinha was appointed as enquiry officer. The petitioner appeared before the enquiry officer, on third date of hearing, which was scheduled for 25.01.2021. She sought time to produce some witnesses. Whereafter, she submitted supplementary reply / statement of defence on 06.03.2021, denying all the charges levelled against her. She also requested the enquiry officer to afford her an opportunity to cross-examine Sri S.N. Tiwari, however, her request was outrightly rejected. On 13.03.2021, Sri S.N. Tiwari appeared before the enquiry officer, but no access was given to the petitioner to cross-examine him. Petitioner also sought permission to produce Sri Umakant Ahirwar as her witness, but the request was turned down.

9. In the meantime, Sri S.N. Tiwari got a writ petition of quo-warranto being **Civil Misc. Writ Petition No. 18675 of 2020**[5], filed through a practising lawyer Sri Pankaj Kumar Kesharwani, before this Court, challenging the petitioner’s appointment. Said writ petition is still pending.

10. The petitioner was issued a second show cause notice on 27.09.2022, to which she submitted her reply on 10.10.2022. Said reply was examined

5 Pankaj Kumar Kesharwani v. State of U.P. & others

and forwarded by the Senior Office Assistant to the Board of Management. On 01.11.2022, the petitioner received an e-mail from the Registrar of the University enclosing therewith her termination order dated 30.10.2022[6] purportedly passed by the Board of Management, without affording any opportunity to the petitioner.

11. First termination order was challenged by the petitioner by means of **Writ-A No. 19902 of 2022**[7], which was disposed of by this Court by order dated 08.12.2022, setting aside the termination order dated 30.10.2022 and granting liberty to the petitioner to submit a fresh reply to the second show cause notice dated 27.9.2022 within a period of three weeks. By the said order, the Board of Management was directed to communicate a short date for personal hearing to the petitioner and thereafter pass a fresh order in accordance with law within a period of two months from the date of compliance shown by the petitioner.

12. In compliance with the aforementioned order, the petitioner was asked to appear before the Board of Management. She submitted her reply. However, without considering petitioner's written reply and oral submissions, an order dated 02.03.2023[8] was passed, again removing the petitioner's services. Challenging the said order dated 02.03.2023, the petitioner preferred **Writ-A No. 6339 of 2023**[9], which was disposed of by order dated 18.04.2023, directing the competent authority to hear the petitioner afresh, giving due consideration to her reply submitted before it, which the petitioner will be submitting within a period of two weeks, and pass a fresh order in the light of observations made therein, as expeditiously as possible, preferably within a period of two months from the date of production of certified copy of the order along with reply by the petitioner.

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6 First Termination Order
7 Smt. Meena Singh v. State of U.P. & 3 Others
8 Second Termination Order (Removal Order)
9 Smt. Meena Singh v. State of U.P. and 3 Others

13. In terms of the aforesaid order dated 18.04.2023, the petitioner submitted her detailed reply along with supportive documents on 04.05.2023, wherein besides reiterating her earlier contentions, she specifically and emphatically asserted that the Ph.D. degree had no role either in her initial appointment or in her promotion. She also pleaded that she has been deprived of opportunity to cross-examine Sri S.N. Tiwari and that no oral evidence or witness proved the charges levelled in the enquiry report. On 14.06.2023, the petitioner appeared before the Board of Management and vehemently raised her contentions.

14. The Board of Management, in its meeting dated 14.06.2023, resolved to terminate the services of the petitioner and consequently, the order dated 27.06.2023[10] was passed by the Registrar of the University. Said termination order was challenged by the petitioner by means of **Writ-A No. 13696 of 2023**[11]. This Court by order dated 29.11.2023 partly allowed the said writ petition with the following directions:

> **(a)** The order dated 27.06.2023 as well as the minutes of the Board of Management, Gautam Buddha University, Greater Noida, Gautam Budh Nagar dated 14.06.2023 are set aside;
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> **(b)** The matter stands remitted back to the respondents to conduct the disciplinary proceedings against the petitioner from the stage of issuing Show Cause Notice/ Disagreement Note;
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> **(c)** The proceedings shall be concluded within a period of three months from the date of production of certified copy of the order subject to cooperation of the writ petitioner, strictly in accordance with statutes and ordinances, as applicable after providing adequate opportunity to the writ petitioner;
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> **(d)** The question of reinstatement and payment of consequential benefits shall be subject to final outcome of the disciplinary proceedings;
>
> **(e)** In case, the disciplinary authority proposes to suspend the writ petitioner, then the writ petitioner shall be admissible to subsistence allowance, arrears and current as and when same falls due subject to compliance of the Rules.

15. Pursuant to the aforesaid directions of the order passed by this Court dated 29.11.2023, the petitioner was served with a show cause notice on

10 Third Termination Order
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23.03.2024, wherein she was asked to submit reply within seven days. Reply to the said notice was given by the petitioner on 07.04.2024. Thereafter, the petitioner appeared in the meetings of the Board of Management on 13.05.2024 and 31.07.2024. Subsequently, a letter was received by the petitioner from one Advocate, namely, Mr. S.C. Tripathi asking for her presence. Since the petitioner was not aware about the constitution of the external committee, she communicated with the University, whereupon she was provided the terms of reference and the order with respect to formation of new committee. The petitioner submitted her response to the 'terms of reference' and placed certain documents in support of her claim. She also submitted her reply on 07.10.2024. Thereafter, a copy of enquiry report dated 08.11.2024 was received by the petitioner along with letter dated 13.11.2024, whereby she was asked to submit a response within seven days. In response thereto, the petitioner submitted her reply on 20.11.2024.

16. Thereafter, the respondent authority - Registrar of the University passed the impugned order dated 14.12.2024[12], whereby petitioner's services have been terminated. Said order is being assailed by the petitioner by means of present writ petition.

17. I have heard Sri Nipun Singh, learned Advocate along with Sri Aishwarya Pratap Shahi, learned counsel for the petitioner, Sri Ashish Kumar Singh, learned Advocate along with Sri Ashutosh Mishra, learned counsel for the respondent University and Sri Ashish Kumar Nagvanshi, learned Additional Chief Standing Counsel for the State.

18. Learned counsel for the petitioner submits that the petitioner has been performing her duties with utmost sincerity and devotion since the date of her initial appointment as Private Secretary. Having fulfilled the eligibility criteria for being promoted as Staff Officer to Vice Chancellor, she was promoted on 17.04.2018, however, with a malafide intent to harass the

12 Fourth Termination Order

petitioner, on account of the complaint moved by her against the Officiating Registrar of the University, Sri S.N. Tiwari, on 06.08.2020, alleging misbehaviour and sexual harassment, the disciplinary proceedings were initiated against the petitioner.

19. Learned counsel for the petitioner further submits that in reference to the guidelines formulated by the Apex Court in the case of **Vishaka v. State of Rajasthan**[13], the University has constituted an Internal Complaint Committee (ICC), however, in a blatant disregard to the directions issued therein it has failed to conduct any inquiry. On the contrary, in retaliation, the petitioner has been targeted placing her under suspension on 18.08.2020, on the basis of a forged complaint.

20. It is argued by learned counsel for the petitioner that the alleged complaint dated 27.08.2020 has been disowned by Mr. Vishnu Pratap Singh (alleged complainant), who stated on oath that he had neither instructed any advocate to issue a notice nor he is aware of any such notice. Relying upon the said affidavit of alleged complaintant, the disciplinary action should have been nullified.

21. Stressing upon the ill-intent of Sri S.N. Tiwari, the then Registrar, learned counsel for the petitioner further contends that Sri S.N. Tiwari has himself proceeded to lodge a first information report against the petitioner, wherein the proceedings culminated in a closure report on 09.07.2021 and the petitioner was exonerated from the alleged criminal liability.

22. To show biased and premeditated mind of Sri S.N. Tiwari to anyhow harass the petitioner, learned counsel for the petitioner next submits that Mr. Tiwari got a writ petition of quo-warranto[14] filed before this Court through a

13 (1997) 6 SCC 241
14 Civil Misc. Writ Petition No. 18675 of 2020 (Pankaj Kumar Kesharwani v. State of U.P. & others)

practising Advocate of this Court Sri Pankaj Kumar Kesharwani, which is still pending.

23. Learned counsel for the petitioner contends that the petitioner's suspension and, later on, termination have been made on account of malafide intent of respondent authorities whose sole motive was to anyhow penalize the petitioner so as to wreck vengeance of filing complaint against the officiating Registrar, whereas the enquiry officer in the enquiry report dated 04.06.2021 himself observed that the petitioner was indeed pursuing her Ph.D as stated in the curriculum vitae submitted along with her application dated 07.07.2010 for the post of PS/Executive Assistant. At that time, she did not make any wrongful claim regarding she being a Ph.D candidate in order to emphasise her candidature as competent enough for the post of PS/ Executive Assistant to VC, GBU.

24. Laying emphasis on the challenge to the impugned termination order dated 14.12.2024, learned counsel for the petitioner summarized his submissions, inter alia, stating that said order has been passed in total disregard to the specific directions issued by this Court in the order dated 29.11.2023 passed in **Writ-A No. 13696 of 2023**, which are being reproduced herein below:

> **"35.** Accordingly the writ petition is decided in the following manner:- (a) The order dated 27.06.2023 as well as the minutes of the Board of Management, Gautam Buddha University, Greater Noida, Gautam Budh Nagar dated 14.06.2023 are set aside; (b) **The matter stands remitted back to the respondents to conduct the disciplinary proceedings against the petitioner from the stage of issuing Show Cause Notice/ Disagreement Note**; (c) The proceedings shall be concluded within a period of three months from the date of production of certified copy of the order subject to cooperation of the writ petitioner, strictly in accordance with statutes and ordinances, as applicable after providing adequate opportunity to the writ petitioner; (d) The question of reinstatement and payment of consequential benefit shall be subject to final outcome of the disciplinary proceedings; (e) In case, the disciplinary authority proposes to suspend the writ petitioner, then the writ petitioner shall be admissible to subsistence allowance, arrears and current as and when same falls due subject to compliance of the Rules.**"**

25. It is argued by learned counsel for the petitioner that the respondent authority has erroneously proceeded to constitute an external committee comprising of following members:

> **(i)** Sri Lalloo Singh, District Sessions Judge (Retired)-Chairman;
>
> **(ii)** Sri Anurag Ojha, Advocate-on-Record, Supreme Court of India; and
>
> **(iii)** Dr. Chandrashekhar Paswan, Assistant Professor, Gautam Buddha University.

26. Controverting to the enquiry report dated 08.11.2024, learned counsel for the petitioner submits that the enquiry committee failed to appreciate the true facts and reply of the petitioner. He further submits that there is no dispute regarding eligibility of the petitioner for the post of Private Secretary as mentioned in Paragraph No. 20 of the counter affidavit. The respondent University has also not disputed the educational qualification of the petitioner. He further contends that in view of the prescribed eligibility criteria, Ph.D. degree does not play any role for the appointment of a candidate as Private Secretary or promotion on the post of Staff Officer to the Vice Chancellor. No benefit was extended to the petitioner on the basis of Ph.D. degree.

27. It is also contended that petitioner's application for the post of Assistant Professor showing a fake Ph.D. degree does not adversely affect her minimum educational qualification, which she possesses for appointment and promotion on the post of Private Secretary and Staff Officer to Vice Chancellor, respectively. Insofar as the salutation 'Dr.', said to have been used by the petitioner, it did not extend any benefit in favour of the petitioner either at the time of her initial appointment as Private Secretary or thereafter promotion as Staff Officer.

28. Learned counsel for the petitioner further contended that the impugned order has been passed without application of mind and sans taking

into consideration of the written objections filed by the petitioner. Neither any finding nor any reason has been recorded therein except treating the report of external committee dated 08.11.2024 as a gospel truth. The objections raised by the petitioner in her detailed reply, after issuance of disagreement note or even before passing the impugned termination order, have not been considered.

29. Regarding justification to ram an officer with the label of 'doubtful integrity', learned counsel for the petitioner has drawn the attention of the Court to the following observations of the Apex Court in the case of **M.S. Bindra v. Union of India**[15]:

> "**13.** While viewing this case from the next angle for judicial scrutiny, i.e., want of evidence or material to reach such a conclusion, we may add that want of any material is almost equivalent to the next situation that from the available materials, no reasonable man would reach such a conclusion. While evaluating the materials, the authority should not altogether ignore the reputation in which the officer was held till recently. The maxim "*nemo firut repente turpissimus*" (no one becomes dishonest all of a sudden) is not unexceptional but still it is a salutary guideline to judge human conduct, particularly in the field of administrative law. The authorities should not keep their eyes totally closed towards the overall estimation in which the delinquent officer was held in the recent past by those who were supervising him earlier. To dunk an officer into the puddle of "doubtful integrity", it is not enough that the doubt fringes on a mere hunch. That doubt should be of such a nature as would reasonably and consciously be entertainable by a reasonable man on the given material. Mere possibility is hardly sufficient to assume that it would have happened. There must be preponderance of probability for the reasonable man to entertain doubt regarding that possibility. Only then there is justification to ram an officer with the label "doubtful integrity".

30. In support of his submissions, with respect to judicial interference in disciplinary matters and consideration of quantum of punishment, learned counsel for the petitioner has drawn the attention of this Court to the relevant paragraphs of following judgements:

(i) B.C. Chaturvedi v. Union of India and others[16]:

> **"18.** A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-

15 (1998) 7 SCC 310
16 (1995) 6 SCC 749

> finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof."

(ii) Prem Nath Bali v. Registrar, High Court of Delhi and another[17]:

> **"20.** It is a settled principle of law that once the charges levelled against the delinquent employee are proved then it is for the appointing authority to decide as to what punishment should be imposed on the delinquent employee as per the Rules. The appointing authority, keeping in view the nature and gravity of the charges, findings of the inquiry officer, entire service record of the delinquent employee and all relevant factors relating to the delinquent, exercised its discretion and then imposed the punishment as provided in the Rules.
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> **21.** Once such discretion is exercised by the appointing authority in inflicting the punishment (whether minor or major) then the courts are slow to interfere in the quantum of punishment and only in rare and appropriate case substitutes the punishment. Such power is exercised when the court finds that the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved charges thereby shocking the conscience of the court or when it is found to be in contravention of the Rules. The Court may, in such cases, remit the case to the appointing authority for imposing any other punishment as against what was originally awarded to the delinquent employee by the appointing authority as per the Rules or may substitute the punishment by itself instead of remitting to the appointing authority."

31. Emphasising upon 'doctrine of proportionality', while considering punishment for the misconduct, learned counsel for the petitioner has relied upon the following judgements:

(i) Ranjit Thakur v. Union of India and others[18]:

> **"25**. Judicial review generally speaking, is not directed against a decision, but is directed against the "decision-making process". The question of the choice and quantum of punishment is within the jurisdiction and discretion of the court-martial. But the sentence has to

17 (2015) 16 SCC 415
18 (1987) 4 SCC 611

suit the offence and the offender. It should not be vindictive or unduly harsh. It should not be so disproportionate to the offence as to shock the conscience and amount in itself to conclusive evidence of bias. The doctrine of proportionality, as part of the concept of judicial review, would ensure that even on an aspect which is, otherwise, within the exclusive province of the court-martial, if the decision of the court even as to sentence is an outrageous defiance of logic, then the sentence would not be immune from correction. Irrationality and perversity are recognised grounds of judicial review. In Council of Civil Service Unions v. Minister for the Civil Service [19] Lord Diplock said:

> "Judicial review has I think developed to a stage today when, without reiterating any analysis of the steps by which the development has come about, one can conveniently classify under three heads the grounds on which administrative action is subject to control by judicial review. The first ground I would call 'illegality', the second 'irrationality' and the third 'procedural impropriety'. That is not to say that further development on a case by case basis may not in course of time add further grounds. I have in mind particularly the possible adoption in the future of the principle of 'proportionality' which is recognised in the administrative law of several of our fellow members of the European Economic Community;. . ."

(ii) Colour-Chem Ltd. v. A.L. Alaspurkar and others[20]:

"**10.** For resolving the controversy centering round this point it is necessary to have a look at the relevant statutory provisions of the Act. The Act was passed by the Maharashtra Legislature in 1971 as Act 1 of 1972. Amongst its diverse objects and reasons one of the reasons for enacting the said Act was for defining and providing for prevention of certain unfair labour practices, to constitute courts (as independent machinery) for carrying out the purposes mentioned therein one of which being enforcing provisions relating to unfair labour practices. "Unfair labour practices" is defined by Section 3 sub-section (16) of the Act to mean, "unfair labour practices as defined in Section 26". Section 26 of the Act lays down that, "unless the context requires otherwise, "unfair labour practices" mean any of the practices listed in Schedules II, III and IV". We are not concerned with Schedules II and III which deal with unfair labour practices on the part of the employer and trade unions. We are directly concerned with Schedule IV which deals with general unfair labour practices on the part of the employers. The relevant provisions of Item 1 of Schedule IV of the Act read as under:

"1. To discharge or dismiss employees—

(a) by way of victimisation;

(b)-(f) * * *

(g) for misconduct of a minor or technical character, without having any regard to the nature of the particular misconduct or the past record of service of the employee, so as to amount to a shockingly disproportionate punishment."

So far as the aforesaid clause (g) is concerned the Labour Court has held that the misconduct alleged against the respondents and held proved

19 (1984) 3 WLR 1174 (HL) : (1984) 3 All ER 935, 950
20 (1998) 3 SCC 192

before it was not misconduct of minor or technical character as they were found sleeping on duty and were also guilty of negligence in keeping the machine in working state without putting necessary raw material therein. As the aforesaid finding of the Labour Court about the nature of misconduct of Respondents 3 and 4 was confirmed by the revisional court and as that finding was not challenged by the respondents before the High Court we shall proceed for the present discussion on the basis that Respondents 3 and 4 were guilty of major misconduct. The moot question, therefore, which falls for consideration is whether on the express language of clause (g) the said provision gets attracted or not. A conjoint reading of different sub-parts of the aforesaid provision, in our view, leaves no room for doubt that it deals with an unfair labour practice said to have been committed by an employer who discharges or dismisses an employee for misconduct of a minor or technical character and while doing so no regard is kept to the nature of the misconduct alleged and proved against the delinquent or without having regard to the past service record of the employee so that under these circumstances the ultimate punishment imposed on the delinquent would be found by the court to be a shockingly disproportionate punishment. It is not possible to agree with the contention of learned Senior Counsel for the respondent-workmen that the said clause would also cover even major misconduct if for such misconduct the orders of discharge or dismissal are passed by the employer without having regard to the nature of the particular misconduct or the past record of the employees and if under these circumstances it is found by the court that the punishment imposed is a shockingly disproportionate one. It is true that after the words “for misconduct of a minor or technical character” there is found a comma in clause (g), but if the contention of learned Senior Counsel is to be accepted the comma will have to be replaced by “or”. That cannot be done in the context and settings of the said clause as the said exercise apart from being impermissible would not make a harmonious reading of the provision. Even that apart, in the said clause (g) the legislature has used the word “or” while dealing with the topic of non-consideration by the employer while imposing the punishment the relevant factors to be considered, namely, either the non-consideration of the nature of the particular misconduct or the past record of service of the employee, which would make the punishment appear to be shockingly disproportionate to the charge of misconduct held proved against the delinquent. Thus the term “or” as employed by the legislature in the said clause refers to the same topic, namely, non-consideration of relevant aspects by the employer while imposing the punishment. Consequently it cannot be said to have any reference to the nature of the misconduct, whether minor or major. It must, therefore, be held that the comma as found in the clause after providing for the nature of the misconduct only indicates how the same nature of the misconduct referred to in the first part of the clause results in a shockingly disproportionate punishment if certain relevant factors, as mentioned in the subsequent part of the clause, are not considered by the employer. If the contention of learned Senior Counsel for the respondents was right all the sub-parts of clause (g) have to be read disjunctively and not conjunctively. That would result in a very anomalous situation. In such an eventuality the discharge or dismissal of an employee in case of a

major misconduct without regard to the nature of the particular misconduct or past record of service may by itself amount to shockingly disproportionate punishment. Consequently for a proved major misconduct, if past service record is not seen, the punishment of discharge or dismissal by itself may amount to a shockingly disproportionate punishment. Such an incongruous result is not contemplated by clause (g) of Item 1 of Schedule IV of the Act. Such type of truncated operation of the said provision is contra-indicated by the very texture and settings of the said clause. Once the said clause deals with the topic of misconduct of a minor or technical character it is difficult to appreciate how the said clause can be construed as covering also major misconduct for which there is not even a whisper in the said clause. On a harmonious construction of the said clause with all its sub-parts, therefore, it must be held that the legislature had contemplated, while enacting the said clause, punishment of discharge or dismissal for misconduct of minor or technical character which, when seen in the light of the nature of the particular minor or technical misconduct or the past record of the employee, would amount to inflicting of a shockingly disproportionate punishment. In this connection we may mention that the same learned Judge B.N. Srikrishna, J., in a latter decision in the case of Pandurang Kashinath Wani v. Divisional Controller, Maharashtra SRTC[21] has taken the view that clause (g) of Item 1 of Schedule IV of the Act refers to minor or technical misconduct only. The same view was also taken by another learned Judge Jahagirdar, J., in the case of Maharashtra SRTC v. Niranjan Sridhar Gade[22]. So far as this Court is concerned the same Act came up for consideration in the case of Hindustan Lever Ltd. v. Ashok Vishnu Kate[23]. It is, of course, true that the question with which this Court was concerned was a different one, namely, whether before any final discharge or dismissal order is passed, a complaint could be filed under the Act on the ground that the employer was contemplating to commit such unfair labour practice, if ultimately the departmental proceedings were likely to result into final orders of dismissal or discharge attracting any of the clauses of Item 1 of Schedule IV of the Act. However, while considering the scheme of the Act especially the very same Item 1 of Schedule IV of the Act a Bench of this Court consisting of G.N. Ray, J. and one of us S.B. Majmudar, J. in para 26 of the Report assumed that the said clause would cover minor misconduct.

11. Learned Senior Counsel for the respondents was right when she contended that this being a labour welfare legislation liberal construction should be placed on the relevant provisions of the Act. She rightly invited our attention to para 41 of the Report of the aforesaid case in this connection. She also invited our attention to a decision of this Court in the case of *Workmen* v. *Firestone Tyre and Rubber Co. of India (P) Ltd.*[24] especially the observations made in para 35 of the Report. It has been observed therein that if two constructions are reasonably possible to be placed on the section, it follows that the construction which furthers the

21 (1995) 1 CLR 1052 (Bom)
22 (1985) 50 FLR 1 (Bom)
23 (1995) 6 SCC 326 : 1995 SCC (L&S) 1385
24 (1973) 1 SCC 813 : 1973 SCC (L&S) 341

policy and object of the Act and is more beneficial to the employee, has to be preferred. But it is further observed in the very said para that there is another canon of interpretation that a statute or for that matter even a particular section, has to be interpreted according to its plain words and without doing violence to the language used by the legislature. In our view, clause (*g*) of Item 1 of Schedule IV of the Act is not reasonably capable of two constructions. Only one reasonable construction is possible on the express language of clause (*g*), namely, that it seeks to cover only those types of unfair labour practices where minor misconduct or technical misconduct has resulted in dismissal or discharge of delinquent workmen and such punishment in the light of the nature of misconduct or past record of the delinquent is found to be shockingly disproportionate to the charges of minor misconduct or charges of technical misconduct held proved against the delinquent. The one and only subject-matter of clause (*g*) is the misconduct of minor or technical character. The remaining parts of the clause do not indicate any separate subject-matter like the major misconduct. But they are all adjuncts and corollaries or appendages of the principal subject, namely, minor or technical misconduct which in a given set of cases may amount to resulting in a shockingly disproportionate punishment if they are followed by discharge or dismissal of the delinquent. The first point, therefore, will have to be answered in the negative in favour of the appellant and against the respondent-delinquents."

(iii) Sukhbir Singh v. The Deputy Commissioner of Police, New Delhi and others[25]:

"10. If Rule 16.2 (1) of the Punjab Police Rules and Rule 8 read with Rule 10 of the Delhi Police Punishment and Appeal Rules, 1980 are compared it may be seen that there is no inconsistency between them. In fact, both the provisions state that the misconduct must be very 'grave' and continued, indicating incorrigibility and complete unfitness for Police service. It is thus seen that while awarding the sentence the Disciplinary Authority must apply its mind closely to the nature of the misconduct. It must be very grave. It cannot be said that the temporary mis-appropriation of a utensil from a mess is such a grave misconduct. But what is more important is that neither the Disciplinary Authority nor the Appellate Authority have applied their mind to the requirement of the statutory provisions before awarding the sentence of dismissal It was incumbent on the said Authorities to look to the past record of the petitioner and to find out whether there is any history of "continued misconduct." Neither the order of the Disciplinary Autority nor the order of the Appellate Authority disclose any past record of the Petitioner. The requirement of the statutory provision is that it must be shown that the delinquent is incorrigible. A history of past record showing the proceedings or warnings to the petitioner would have thrown light on this aspect of the misbehaviour but the orders are silent. So also the rules require that a delinquent must be found "to be complete unfit" for working in the Police force. This is in contra-distinction to the unfitness to work "in a particular rank." The Disciplinary Authority and the Appellate Authority have not looked at this aspect of misconduct also.

25 1984 SCC OnLine Del 18 : (1984) 2 SLR 149

> Considering the nature of the misconduct and the statutory requirements I hold that the discretion has not been properly exercised by the Disciplinary Authority and the Appellate Authority and the punishment of dismissal is awarded in branch of the said statutory requirements. The punishment is too severe as compared to the misconduct. Recently in Civil Writ Petitions No. 1519 of 1979 and 1683 of 1979 I was called upon to decide whether in view of Rule 16.3 of the Punjab Police Rules a Departmental Proceeding held against two Police Officers after their aquittal by the Criminal Court was legal and valid. The two officers were found guilty of taking a young lady, who was stranger to the city, at night to quarters of another Officer in the Police lines for immoral purposes and for outraging her modesty. The punishment awarded to the said Officers was of foreiture of two years of approved service. This recent example which had come to my notice from the same department shows that for more grave misconduct more mild punishment of forfeiture of two years of service was awarded in the same department, namely, Delhi Police. This would also show that the punishment in the present case is too severe and is not commensurate with the misconduct. I, therefore, hold that the petitioner is guilty of the misconduct but the punishment of dismissal is illegal. The punishment is, therefore, *set aside*. The Disciplinary Authority shall re-consider the matter of punishment in the light of Rule 16.2(1) of the Punjab Police Rules, Rules 8 and 10 of The Delhi Police Punishment and Appeal Rules, 1980 and shall pass a fresh order of punishment. The Petition partly succeeds. No order as to costs."

(iv) Shankar Dass v. Union of India and another[26]:

> "**7.** It is to be lamented that despite these observations of the learned Magistrate, the Government chose to dismiss the appellant in a huff, without applying its mind to the penalty which could appropriately be imposed upon him insofar as his service career was concerned. Clause (*a*) of the second proviso to Article 311(2) of the Constitution confers on the Government the power to dismiss a person from service "on the ground of conduct which has led to his conviction on a criminal charge". But, that power, like every other power, has to be exercised fairly, justly and reasonably. Surely, the Constitution does not contemplate that a government servant who is convicted for parking his scooter in a no-parking area should be dismissed from service. He may, perhaps, not be entitled to be heard on the question of penalty since clause (*a*) of the second proviso to Article 311(2) makes the provisions of that article inapplicable when a penalty is to be imposed on a government servant on the ground of conduct which has led to his conviction on a criminal charge. But the right to impose a penalty carries with it the duty to act justly. Considering the facts of this case, there can be no two opinions that the penalty of dismissal from service imposed upon the appellant is whimsical."

32. Learned counsel appearing for the respondent University submits that the petitioner produced a forged and fake degree before the University and

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26 (1985) 2 SCC 358 : 1986 Supreme Court Cases (Cri) 242

misrepresented herself to be a Ph.D. Degree holder using the salutation 'Dr', prefixing it before her name. Such fraud vitiates everything, thus, the conduct of the petitioner is unwelcoming for an employee in a Higher Educational Institute. This act amounts to grave misconduct.

33. It is further contended that in the enquiry report dated 04.06.2021, out of four charges, three were found proved against the petitioner and only one charge remained unproven. Learned counsel for the University has also drawn attention of the Court to the application moved by the petitioner for the post of Assistant Professor, alleging herself to be a Ph.D. Degree holder. He argues that even at the time of her initial appointment, the petitioner has shown herself to be pursing 'Ph.D.' in her curriculum vitae, which proves that she misled the University and obtained the appointment by playing fraud.

34. Learned counsel for the respondents laying emphasis on the enquiry report submitted by the external committee, dated 08.11.2024, submits that order of termination dated 14.12.2024 has rightly been passed against the petitioner. He has relied upon a judgement of the Apex Court in the case of **Indian Oil Corporation Ltd. v. Rajendra D. Harmalkar**[27]**,** judgement of Delhi High Court in the case **Kiran Thakur v. Resident Commissioner, Bihar Bhawan**[28]**,** and a judgement of this Court in the case of **Distt. Basic Education Officer and another v. Smt. Punita Singh and 3 others**[29]. He has emphasized upon paragraph-22 of the judgement in **Indian Oil Corporation Limited (supra)**, which is being reproduced herein below:

> "**22.** In the present case, the original writ petitioner was dismissed from service by the disciplinary authority for producing the fabricated/ fake/forged SSLC. Producing the false/fake certificate is a grave misconduct. The question is one of a TRUST. How can an employee who has produced a fake and forged marksheet/certificate, that too, at the initial stage of appointment be trusted by the employer? Whether such a certificate was material or not and/or had any bearing on the

27 (2022) 17 SCC 361
28 Neutral Citation 2023:DHC:3459
29 Neutral Citation 2024:AHC-LKO:69392-DB

> employment or not is immaterial. The question is not of having an intention or mens rea. The question is producing the fake/forged certificate. Therefore, in our view, the disciplinary authority was justified in imposing the punishment of dismissal from service."

35. Learned counsel for the University has strenuously argued that the petitioner has committed grave misconduct as she consciously and intentionally used salutation 'Dr.' and submitted a fabricated degree of Ph.D., thus, in view of the settled position of law, she is not entitled for any relief.

36. I have considered the submissions advanced by learned counsel for the parties and perused the record.

37. The order impugned dated 14.12.2024 has been passed on the basis of disciplinary proceedings initiated against the petitioner for the submission of forged Ph.D. Degree and using salutation 'Dr.' prefixing it before her name. The enquiry committee, in its report, found the said accusations levelled against petitioner to be proved.

38. Record reveals that since the date of suspension of the petitioner dated 18.08.2020, three rounds of proceedings have been conducted, which ultimately culminated in the impugned order dated 14.12.2024. This is the Fourth Termination order passed against the petitioner and the present writ petition is the fourth one filed by her.

39. Perusal of the notices issued to the petitioner, replies submitted thereto and the enquiry reports, show that admittedly the petitioner used salutation 'Dr.' before her name without being in legitimate possession of a Ph.D. Degree. However, the allegation of submitting fake degree of Ph.D., is denied by the petitioner, stating that she never submitted any such degree in the office of the University, though, it may have been placed by someone in her service records, to which the custodian is Registrar of the University, against whom the petitioner had moved a complaint of sexual harassment on 06.08.2020, just prior to passing of suspension order dated 18.08.2020. The

clarification submitted by the petitioner, which has been quoted in Sl. No. 7.11 of the enquiry report dated 04.06.2021 reads thus:

> **"7.11** …
>
> I have never submitted a PhD degree at the post that I have been serving on, and neither have I ever claimed to be a PhD holder. In addition to this, as far as my knowledge goes, an employee's documents are not in their annual performance report files (this may be verified with establishment cell) hence how the document was found in that file is beyond my scope of understanding. I would also like to bring to your kind notice that my personal files had been in the possession of Mr. S.N Tiwari for several months before my suspension, this may also be verified with the establishment cell. I had informed the honourable Vice Chancellor about the same several times verbally and in writing.
>
> The maximum educational qualification required for my post as PS to VC was graduation degree."

40. Indisputably, the petitioner has used the salutation 'Dr' before her name. The University finds it a serious misconduct and loss of integrity. However, the enquiry officer in its enquiry report dated 04.06.2021 in the Conclusion No. 7.17 has mentioned that it is clear from the evidence that the petitioner was indeed pursuing her Ph.D. as stated in the curriculum vitae, she had submitted along with her application dated 07.07.2010 for the post of PS/Executive Assistant. At that time, she did not make any wrongful claims regarding she being a Ph.D. candidate in order to emphasise her candidature as competent enough for the post of PS/ Executive Assistant in GBU. The conclusion 7.17 is being quoted herein below:

> "**7.17 <u>Conclusion:</u>** In view of the above, it is evident that CO submitted the fake PhD degree and misled her employer through various acts to establish that she is a Ph.D degree holder. Hence, her integrity is doubtful which is in violation of Sub para 3(i) of Para 16 pertaining to employees conduct Rules of the Ordinances of GBU. However, it is clear from the evidence that she was indeed pursuing her Ph.D as stated in the curriculum vitae she had submitted along with her application dated 07.07.2010 for the post of PS/Executive Assistant. At that time, she did not make any wrongful claims regarding she being a Ph.D candidate in order to emphasise her candidature as competent enough for the post of PS/ Executive Assistant of GBU."

41. In the conclusion recorded by the enquiry officer at Sl. No. 8.4, it has been observed that it is very difficult to establish that petitioner's damnable attempt to show herself as Ph.D. degree holder had a significant role in her

promotion as Staff Officer to the Vice Chancellor. The conclusion 8.4 is being quoted herein below:

> **"8.4 <u>Conclusion</u>**: In view of the above, it is evident that CO sought to mislead her employer by various means to establish that she was a Ph.D degree holder. Thus, concealment of the material fact she used a fake Ph.D degree while applying for the Assistant Professor post, is in violation of Sub Para 3 (I) of Para 16 pertaining to Employees Conduct Rules of the Ordinances of GBU. However, it is very difficult to establish that her damnable attempt to show herself a Ph.D degree holder had a significant role in her promotion as Staff Officer to the Vice Chancellor."

42. While recording Conclusion No. 9.2 the enquiry officer in the report dated 04.06.2021 has stated that it is very difficult to establish that her false attempt to show herself a Ph.D. degree holder had a significant role in her promotion as Staff Officer to the Vice Chancellor. The conclusion 9.2 is being quoted herein below:

> "**9.2 <u>Conclusion:</u>** In view of the above, it is evident that CO sought to mislead her employer by various means including the usage of fake educational document while applying for the Assistant professor post, to establish that she was a Ph.D degree holder. Thus the action of the CO, is in violation of Sub Para 3 (I) of Para 16 pertaining to Employees Conduct Rules of the Ordinances of GBU. However, it is very difficult to establish that her false attempt to show herself a Ph.D holder had a significant role in her promotion as Staff Officer to the Vice Chancellor."

43. To the arguments advanced by learned counsel for the respondent University that *fraus omnia vitiat* (fraud vitiates everything), learned counsel for the petitioner has drawn attention of the Court to the observations made by the enquiry officer in its report dated 04.06.2021, quoted in the preceding paragraphs, that it has been specifically averred by the enquiry officer that 'it is clear from the evidence that the petitioner was indeed pursuing her Ph.D as stated in the curriculum vitae, she had submitted along with her application dated 07.07.2010 for the post of PS/Executive Assistant. At that time, she did not make any wrongful claim regarding being a Ph.D. candidate, in order to emphasise her candidature as more competent for the post of PS/ Executive Assistant in GBU'.

44. Learned counsel for the petitioner further contended that with respect to the ‘term of reference’ that ‘employee can be said to have not derived any benefit of Ph.D. degree whatsoever’, it has been observed in Paragraph-8 of the enquiry report dated 08.11.2024 that in absence of any material which indicates that mere appendage of salutation ‘Dr.’ had any bearing on her regularization or promotion of employee as considered by three member panel, it is difficult to assume that any benefit in material terms have flown to her directly.

45. In retaliation to above arguments, learned counsel for the University contended that the petitioner had produced forged and fake Ph.D. degree before the University and also misrepresented herself as belonging to doctorate category by prefixing ‘Dr.’ before her name, thus, she played fraud on the University, for which she is liable to be punished with major punishment of dismissal from service.

46. This Court finds that before arriving at any conclusion, definitions of ‘misconduct’ and ‘fraud’ are required to be considered.

47. 'Misconduct' has been defined in P. Ramanatha Aiyar's Law Lexicon, Reprint Edition 1987 at page 821, as under:

> "The term misconduct implies a wrongful intention, and not a mere error of judgment. Misconduct is not necessarily the same thing as conduct involving moral turpitude. The word misconduct is a relative term, and has to be construed with reference to the subject matter and the context wherein the term occurs, having regard to the scope of the Act or statute which is being construed. Misconduct literally means wrong conduct or improper conduct. In usual parlance, misconduct means a transgression of some established and definite rule of action, where no discretion is left, except what necessity may demand and carelessness, negligence and unskilfulness are transgressions of some established, but indefinite, rule of action, where some discretion is necessarily left to the actor. Misconduct is a violation of definite law; carelessness or abuse of discretion under an indefinite law. Misconduct is a forbidden act; carelessness, a forbidden quality of an act, and is necessarily indefinite. ‘Misconduct in office’ may be defined as unlawful behaviour or neglect by a public officer, by which the rights of a party have been affected."
>
> *(Emphasis supplied)*

48. In KERR on the Law of Fraud and Mistake, ‘Fraud’ has been defined thus:

> "It is not easy to give a definition of what constitutes fraud in the extensive significance in which that term is understood by Civil Courts of Justice.

> The Courts have always avoided hampering themselves by defining or laying down as a general proposition what shall be held to constitute fraud. Fraud is infinite in variety...Courts have always declined to define it, ...reserving to themselves the liberty to deal with it under whatever form it may present itself. Fraud...may be said to include property all acts, omissions, and concealments which involve a breach of legal or equitable duty, trust or confidence, justly reposed, and are injurious to another, or by which an undue or unconscientious advantage is taken of another. All surprise, trick, cunning, dissembling and other unfair way that is used to cheat anyone is considered as fraud. Fraud in all cases implies a willful act on the part of anyone, whereby another is sought to be deprived, by illegal or inequitable means, of what he is entitled too."
>
> *(Emphasis supplied)*

49. The Supreme Court in the case of **General Manager, Appellate Authority, Bank of India and another v. Mohd. Nizamuddin**[30], has held that misconduct must necessarily be measured in terms of the nature of the misconduct and the court must examine as to whether misconduct has been detrimental to the public interest. Relevant paragraph of the said judgement reads thus:

> "**9.** It is now well-settled principle of law that the gravity of misconduct must necessarily be measured in terms of the nature of the misconduct. A bank officer holding the post of Middle Management Officer, Grade II which is a responsible post absented himself unauthorisedly for about three years which is undoubtedly detrimental to the public interest cannot be said to be not grave misconduct which would warrant dismissal from service. The High Court's view that the punishment of dismissal from service on the proved misconduct is disproportionate to the gravity of the misconduct, in our view, is fallacious. There can never be a more grave misconduct than a bank officer holding a responsible post absenting himself unauthorisedly for a period of three years detrimental to the public interest. That apart, despite the receipt of several notices issued to him he remained adamant and shied away from participating in the inquiry proceedings. This conduct is also unbecoming of a responsible officer holding the position as Middle Management Officer, Grade II."
>
> *(Emphasis supplied)*

50. In the case of **Ravi Yashwant Bhoir v. Collector**[31], the Apex Court has observed that the expression "misconduct" has to be construed and understood in reference to the subject-matter and context wherein the term occurs taking into consideration the scope and object of the statute which is

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30 (2006) 7 SCC 410 : 2006 SCC (L&S) 1663 : AIR 2006 SC 3290
31 (2012) 4 SCC 407 : 2012 SCC OnLine SC 237

being construed. Misconduct must be measured in the terms of the its nature and it should be viewed with the consequences of misconduct as to whether it has been detrimental to the public interest.

> **"19.** Further, the expression "misconduct" has to be construed and understood in reference to the subject-matter and context wherein the term occurs taking into consideration the scope and object of the statute which is being construed. Misconduct is to be measured in the terms of the nature of misconduct and it should be viewed with the consequences of misconduct as to whether it has been detrimental to the public interest."

51. The Apex Court in **Ravi Yashwant Bhoir (supra)** has elaborated the expression disgraceful conduct. Paragraph-20 of the said judgement reads thus:

> "**20.** The expression "disgraceful conduct" is not defined in the statute. Therefore, the same has to be understood in given dictionary meaning. The term "disgrace" signifies loss of honour, respect, or reputation, shame or bring disfavour or discredit. "Disgraceful" means giving offence to moral sensibilities and injurious to reputation or conduct or character deserving or bringing disgrace or shame. Disgraceful conduct is also to be examined from the context in which the term has been employed under the statute. Disgraceful conduct need not necessarily be connected with the official (sic duties) of the office-bearer. Therefore, it may be outside the ambit of discharge of his official duty."

52. It is a clear case of unnecessary harassment of the petitioner, as all proceedings against her were initiated only after she lodged a complaint against the Registrar. Significantly, the proceedings were founded upon a complaint allegedly made by a person who, in fact, had not filed it. This sequence of events unmistakably reflects the conduct of the Registrar, who continued in service with the University, whereas the petitioner has been removed from employment.

53. The petitioner has merely stated that she is pursuing Ph.D.. At no stage has she either produced any document or made a categorical claim that she had completed Ph.D. course. The alleged fact was specifically denied before the enquiry officer as well. Despite this, the petitioner has been held guilty of misconduct. Such a finding cannot be sustained in the eyes of law. A mere assertion of pursuing higher studies does not amount to a false claim

of possessing the said qualification. Unless there is a clear, deliberate, and conscious misrepresentation with intent to secure an undue advantage, the same cannot constitute misconduct.

54. The Supreme Court in the case of **Union of India and others v. J. Ahmed**[32]**,** observed that misconduct must involve a wrongful act or a willful omission which is blameworthy and not merely an error of judgment or inadvertence. Similarly, in **State of Punjab and others v. Ram Singh Ex-Constable**[33], the Court clarified that misconduct implies a transgression of established rules or standards of behavior, not an innocuous or ambiguous statement.

55. From the record, it unmistakably emerges that the entire chain of proceedings was set in motion only after the petitioner lodged a complaint dated 06.08.2020 against Mr. S.N. Tiwari, the then officiating Registrar, concerning an alleged legal notice purportedly issued by Shri Vishnu Prasad Singh. This Court has further noticed that an endorsement was made on the said notice directing the Registrar to ascertain the facts and report confidentially, which stands categorically denied by the alleged complainant himself. These circumstances leave no room for doubt that the university authorities, and in particular the Registrar, acted with a clear design to target and harass the petitioner, thereby demonstrating a pre-determined and vindictive approach rather than a fair or lawful exercise of authority.

56. This Court further observes that in her statement before the Enquiry Committee, the petitioner categorically denied having submitted any Ph.D. certificate at any stage or at any point of time. She also specifically stated that the custodian of the relevant records was Mr. S.N. Tiwari, the then officiating Registrar, against whom she had already lodged a complaint. The facts on record thus establish that Mr. Tiwari was inimically disposed

32 (1979) 2 SCC 286
33 (1992) 4 SCC 54

towards the petitioner from the very inception. It is therefore manifest that the entire proceedings were initiated, pursued and sustained at the instance of Mr. Tiwari, reflecting not only bias but also a mala fide and vindictive exercise of power on the part of the University authorities.

57. The law is well settled that any administrative or disciplinary proceeding tainted by mala fides or actuated by bias cannot be sustained in the eyes of law. The Supreme Court in the case of **State of Punjab v. V.K. Khanna and others**[34] has held that proceedings initiated with a predetermined mind or mala fide intent stand vitiated. Likewise, in the case of **Kumari Shrilekha Vidyarthi and others v. State of U.P. and others**[35] the Apex Court observed that arbitrariness or malice in law, even in administrative actions, strikes at the root of legality. Further, in the case of **Ramesh Chander Singh v. High Court of Allahabad and another**[36], it was categorically held that bias and malice in law render the entire proceedings void ab initio.

58. In some of the cases, the courts have struck down disciplinary action where the proceedings were found to have been initiated on account of personal bias and malafide intent with the observation that when an authority acts with an intent of animosity against an employee, such action cannot be sustained in law.

59. Applying these settled principles to the present case, it is evident that the proceedings against the petitioner were not guided by lawful consideration but were the direct outcome of personal enmity and vindictiveness, thereby rendering the same wholly unsustainable in law.

60. This Court finds that there is no material available on record, nor has any finding been returned, to establish that possession of a Ph.D. degree was

34 (2001) 2 SCC 330
35 (1991) 1 SCC 212
36 (2007) 4 SCC 247

ever prescribed as an essential qualification for appointment to the post of Private Secretary to the Vice-Chancellor or for promotion to the post of Staff Officer. It further emerges that no guidelines or administrative instructions were in existence to suggest that a candidate holding a higher academic degree would be entitled to any preference or advantage in the matter of appointment or promotion.

61. In these circumstances, there was neither occasion nor necessity for the petitioner to submit or rely upon a Ph.D. degree. The allegation that the petitioner attempted to secure any undue advantage by producing a Ph.D. certificate is wholly misconceived and unfounded, particularly when the petitioner has categorically and consistently denied having submitted the same at any stage.

62. This Court is constrained to observe that the initiation of proceedings against the petitioner on such untenable grounds reflects a clear abuse of process and smacks of mala fides. The manner in which the petitioner has been proceeded against, despite the absence of any legal or factual basis, indicates that the action was not guided by bona fide considerations but was motivated by extraneous reasons with the sole object of victimising the petitioner. Such conduct, in the considered opinion of this Court, amounts to an arbitrary exercise of power and cannot be countenanced in law.

63. It is evident from the record that no material has been produced to demonstrate that the petitioner ever derived or was conferred any advantage by mentioning in her application, at the time of her selection as Private Secretary to the Vice-Chancellor, that she was pursuing Ph.D. The authorities have proceeded merely on surmises and conjectures, and that too after the petitioner had rendered several years of unblemished and satisfactory service. It is settled law, as laid down in the case of **Union of India v. H.C. Goel**[37], **Roop Singh Negi v. Punjab National Bank and**

37 AIR 1964 SC 364

others[38], and other judgments of the Supreme Court, that disciplinary action based on no evidence or mere suspicion cannot be sustained. The impugned action, therefore, is wholly unsustainable in law.

64. The bias of the authorities is evident from the fact that they have relied solely upon the allegations made by Mr. S.N. Tiwari, the officiating Registrar, against whom the petitioner had already lodged a complaint. Despite this, the authorities proceeded to conduct an enquiry in complete disregard to the order dated 29.11.2023 passed by this Court passed in **Writ-A No. 13696 of 2023 (Smt. Meena Singh v. State of U.P. and 3 Others)**. This Court had issued no direction for holding a fresh enquiry. Nevertheless, the authorities, in disregard of the Court's order, constituted a three-member external committee to conduct an enquiry, which clearly reflects the mala fide intention of the authorities concerned.

65. Prior to the so-called complaint allegedly moved by one Vishnu Pratap Singh, which has in fact been denied by the complainant himself, there had never been any grievance or allegation at any point of time regarding the work or conduct of the petitioner. On the contrary, her service was consistently found satisfactory and her integrity was duly certified. The entire course of events took an adverse turn only after the petitioner lodged a complaint against the Registrar, followed by repeated enquiries, the last of which was conducted in a manner contrary to the directions issued by this Court.

66. This Court expresses its displeasure that despite three rounds of litigation and the matter having been remitted, the concerned authorities, in utter disregard of this Court's directions, proceeded to conduct a fresh enquiry with the sole object of punishing the petitioner without any justifiable cause.

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38 (2009) 2 SCC 570

67. Even if it is assumed that the petitioner had mentioned in her application that she was pursuing a Ph.D. and had prefixed 'Dr.' to her name, the same by itself cannot be construed as misconduct, particularly when these aspects have neither been examined nor established in the course of the enquiry.

68. Having considered the arguments advanced by learned counsel for the parties and perusal of record, this Court finds that a case is made out in favour of the petitioner. The order impugned dated 14.12.2024 passed by the Registrar, Gautam Buddha University, Greater Noida, Gautam Budh Nagar is quashed. The respondent University – Registrar, Gautam Buddha University, Greater Noida, Gautam Budh Nagar is directed to allow the petitioner to function as Staff Officer to Vice Chancellor.

69. With the aforesaid directions, writ petition stands allowed.

70. There shall be no order as to costs.

(Mrs. Manju Rani Chauhan,J.)

September 16, 2025
DS