

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 9th OF OCTOBER, 2025

WRIT PETITION No. 25953 of 2024

KONARK BHARADWAJ

Versus

M.P. RAJYA KRISHI VIPARAN BOARD AND OTHERS

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Appearance:

Shri Jubin Prasad - Advocate for the petitioner.

Shri Rohit Jain – Advocate for the respondent.

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ORDER

(Reserved on 09.10.2025)
(Pronounced on 15.10.2025)

The present petition has been filed challenging the order Annexure P-10 dated 10.08.2023 thereby dismissing the petitioner from service that has been confirmed by the order Annexure P-12 in appeal dated 12.08.2024.

2. The learned counsel for the petitioner has vehemently argued that the aforesaid penalty could not have been awarded to the petitioner because he was visited with a second charge sheet on the same set of allegations and in earlier round, a charge sheet was issued to him vide Annexure P-3 dated

10.10.2019 in response to which a departmental enquiry ensued which resulted in passing of penalty order dated 24.02.2020 whereby the penalty of extension of probation period by one year was awarded to the petitioner.

3. It is argued that thereafter on the same set of allegations a fresh charge sheet was issued to the petitioner vide Annexure P-6 dated 7.02.2022 which is totally unauthorized act on part of the respondents and it is settled in law that second charge sheet on same set of allegations cannot be issued.

4. The learned counsel for the petitioner has relied on a number of judgments of the Hon'ble Apex Court to contend that second charge sheet on same set of allegations cannot be issued and therefore, it is vehemently argued that the penalty order of dismissal be set aside.

5. It is further argued that the respondents have taken a plea that the earlier penalty order Annexure P-4 was reviewed and the fresh charge sheet has been issued as a consequence of order passed by the reviewing authority. It is argued that such contention cannot be accepted because there is no provision for review in the service regulations of Respondent Board.

6. *Per contra*, it is contended by learned counsel for the Respondent-Board that the power for review is very much there in the service regulations as per Clause 38(three) thereof and therefore, the fresh charge sheet having been issued in pursuance to order of the reviewing authority, no indulgence deserves to be caused in the matter. It is argued that the petitioner had committed grave malpractices and even in the first enquiry the malpractices had been proved and now the petitioner cannot argue that the malpractices are not made out because the earlier order of penalty was

never challenged by the petitioner in which also his malpractices were found proved.

7. Heard.

8. In the present case, the petitioner was earlier penalized by order Annexure P-4 dated 24.02.2020 and then a fresh charge sheet has been issued to him vide Annexure P-6 dated 7.02.2022 on the same set of allegations.

9. The respondents have defended their action on the ground that the earlier order was reviewed and the permission of the authority was accorded for reviewing the earlier order in pursuance to which the fresh charge sheet has been issued vide Annexure P-6. This was countered by the petitioner on the ground that there is no power of review vested in the service regulations.

10. The services of the petitioner are subjected to State Mandi Board Service Regulations, 1998 and as per clause 38(three) of the said regulations, the power of review has been vested in the following terms:-

(तीन) पुनर्विलोकन का अधिकार :

(1) राज्य मण्डी बोर्ड सेवा के सदस्य द्वारा विनियम 30 में विनिर्दिष्ट किये गये किसी भी शास्ति अधिरोपित वाले आदेश के विरुद्ध ऐसे आदेश की प्राप्ति की तारीख से छः माह के अन्दर अनुसूची-9 में वर्णित सक्षम, अपीलीय प्राधिकारी से अगले उच्च अधिकारी को पुनर्विलोकन हेतु आवेदन प्रस्तुत किया जा सकेगा।

पुनर्विलोकनकर्ता अधिकारी किसी भी समय या तो स्वप्रेरणा से अथवा इस हेतु उसे आवेदन प्रस्तुत होने पर, प्रकरण से संबंधित जांच अभिलेखों को मंगा सकेगा और ऐसे किसी भी आदेश का जिसके विरुद्ध अपील अनुज्ञात है. किन्तु

कोई अपील नहीं की गई हो. या जिसके विरुद्ध कोई अपील अनुज्ञात ना हो पुनर्विलोकन कर सकेगा और –

(क) आदेश की पुष्टि कर सकेगा, उसे रूपभेदित कर सकेगा या उसे अपास्त कर सकेगा,

या

(ख) उस आदेश द्वारा अधिरोपित की गई शास्ति की पुष्टि कर सकेगा उसमें कमी कर सकेगा या उसमें वृद्धि कर सकेगा या उसे अपास्त कर सकेगा या जिसे कोई शास्ति अधिरोपित नहीं की गई हो. वही कोई भी शारित अधिरोपित कर सकेगा,

या

(ग) मामले को, उस प्राधिकारी की ओर, जिसने कि वह आदेश दिया हो, या किसी अन्य प्राधिकारी की और ऐसे प्राधिकारी को ऐसी और जांच, जैसी कि वह मामले की परिस्थितियों में आवश्यक समझे, करने के निर्देश देते हुए भेज सकेगा,

या

(घ) ऐसे अन्य आदेश पारित कर सकेगा, जिसे कि वह उचित समझे परन्तु किसी शास्ति को अधिरोपित करने वाला, या बढ़ाने वाला कोई भी आदेश पुनर्विलोकन करने वाले किसी भी प्राधिकारी द्वारा तब तक नहीं दिया जायेगा जब तक कि बोर्ड सेवा के संबंधित सदस्य को प्रस्तावित की गई शास्ति के विरुद्ध अभ्यावेदन करने का युक्तियुक्त अवसर न दे दिया गया हो।

(2) पुनर्विलोकन के लिये कोई भी कार्यवाही तब तक नहीं की जावेगी जब तक कि

(एक) अपील के लिए अवधि काल समाप्त न हो जाए.

(दो) जहां ऐसी अपील प्रस्तुत कर दी गई है. वहां उसका निपटारा ना हो जाए।

(3) पुनर्विलोकन के आवेदन पत्र पर उसी रीति में कार्यवाही की जायेगी, मानों कि वह इन नियमों के अधीन अपील हो।

11. The power of review is very much there in the service regulations and therefore the argument of the petitioner that there is no power of review, pales into insignificance. Since no appeal was filed against the earlier penalty order Annexure P-4, therefore the power of review could be exercised either *suo motu* or on application of a party. The authority has exercised power *suo motu* which is duly authorized under clause 38(three) of the Service Regulations.

12. There can be said to be a minor misunderstanding of the authority that in place of proceeding on the basis of the same charge sheet, it issued a fresh charge sheet under misconception that the earlier charge sheet has been disposed of and issued the fresh charge sheet containing the same charges. In the opinion of this Court, once the earlier order had been recalled by the reviewing authority, its existence had ceased to exist and as per direction of the reviewing authority, the fresh charge sheet was issued which cannot be said to be something not authorized by law.

13. Therefore the argument of the petitioner that the charge sheet Annexure P-6 amounts to second charge sheet on the same set of allegations, is discarded. Coming to the merits of the case, the petitioner was saddled with three charges which are summarized as under :-

(a) The first charge related to the petitioner making 209 entries in fraudulent manner on the web-portal and issuing forged e-receipts and himself doing verification of the said e-receipts fraudulently generated by him.

(b) The second charge related to the activity of the petitioner in coming to the office on the days of holidays and then making unauthorized entries in the web -portal from the office computers.

(c) The third charge related to the petitioner not performing his duties in a proper manner in the matter of generating e-entry receipts in the market committee premises and other entries which resulted in various irregularities.

14. From a perusal of the earlier penalty order Annexure P-4 it is clear that in the earlier penalty order also the authority had found that the entries have been made by the petitioner because the OTP of the entries has been received on the mobile phone of the petitioner and without involvement of the petitioner the fraudulent entries were impossible. The authority further noted that the petitioner has admitted having done the fraudulent entries in the web-portal. Despite that, the authority in its own wisdom simply extended the probation period by one year despite giving categorical finding in Annexure P-4 that the petitioner has made 209 fraudulent entries on the web portal. If the then authority had decided to condone the grievous lapse of the petitioner which the said authority could not have done because the said authority is also in position of trustee of the Board being an officer thereof and was having duty and obligation to curb such malpractices and was not under obligation to condone the grievous misconduct of the employees, therefore, the reviewing authority having taken the matter in *suo motu* review could not be said to be illegal looking to the manner in which the disciplinary authority having come to conclusion in Annexure P-4 that the petitioner has admitted to having made the fraudulent entries, despite that he only extended probation by one year. It was a misapplication of trust reposed by the Board in the Disciplinary Authority and the Reviewing authority rightly corrected the same.

15. Even before issuing the fresh penalty order after conclusion of the fresh enquiry, the disciplinary authority has issued a show cause notice

Annexure P-8 thereby mentioning in detail that the fraudulent entries have been made by the login ID which is seeded to the mobile phone of the petitioner and the entries were impossible without involvement of the petitioner because OTPs were being received on mobile phone of the petitioner and looking to this finding which is consistent in both the enquiries, in the opinion of this court, the punishment of dismissal awarded to the petitioner does not appear to be illegal or disproportionate in any manner. The petitioner had admitted to have made the fraudulent entries as recorded in the order Annexure P-4 and nothing has been placed on record to disbelieve the findings arrived at against the petitioner in both the enquiries that the fraudulent entries on the web-portal could not have been made without involvement of petitioner because OTP of the said entries was received on mobile phone of the petitioner. In the opinion of this Court, no interference is required to be caused in the order of penalty issued to the petitioner and looking to the conduct exhibited by the petitioner, which was even before confirmation of probation, retention of such a person in service would be counter-productive to public interest.

16. Consequently, the petition stands *dismissed* and the impugned orders stand confirmed.

nks

(VIVEK JAIN)
JUDGE