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**(2020) 06 P&H CK 0078**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Letter Patent Appeal No. 379 Of 2020 In Civil Writ Petition No. 35978 Of 2019

Ik Gujral Punjab Technical University Jalandhar, Kapurthala -  
Jalandhar Highway & Another

**APPELLANT**

**Vs**

Rohan Jain & Another

**RESPONDENT**

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**Date of Decision :** 11-06-2020

**Acts Referred:**

**Citation :** (2020) 06 P&H CK 0078

**Hon'ble Judges :** Jaswant Singh, J; Sant Parkash, J

**Bench :** Division Bench

**Advocate :** Rajiv Atma Ram, Arjun Pratap Ram, Tribhawan Singla

**Final Decision :** Allowed

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**Judgement**

I. For offences under clauses (c), (k)

and (r)", "Disqualification for a period

that may extend

to two semesters but be not

less than

one semester

II. For offences under clauses (a), (d), (e), (g),

(h), (i), (j), (l)

(v), (x) and (z)", "Disqualification for a period of not less than two

semesters

III. For offences

under

clauses (m) and (t)", "Disqualification for a period of not less than three semesters

IV. For offences under

clauses (n) and (o)", "Disqualification for a period of not less than four semesters

V. For offences under clauses

(s) and (u)", "Disqualification for a period of not less than five semesters

VI. For offences under clause (p), "Disqualification for a period that may be extended of five semesters

Vii. For offences under clause (y), "Disqualification for a period that may extend to five semesters, but not less than two semesters.

of the smart watch was not having the knowledge or was not aware of the fact because it is a common practice that at the time of the examination,"

these instructions are read over in open examination room or even are pasted outside the examination centre.,

While allowing the writ petition, learned Single Judge has observed that the principles of natural justice were flouted with impunity. The said finding in",

Para 12 of the impugned judgment is reproduced here-in-below:-,

12. Admittedly, the material relied upon by the Unfair Means Committee such as the Apple watch, the complaint made against the petitioner,"

statement of the complainant and the CCTV footage have not been shown to the petitioner on the ground that he had admitted his guilt. Although, the",

case of the petitioner is that he never admitted his guilt but only apologized for his action of arguing with the Supervisor. Assuming the same to be,

correct, it is not permissible for the authorities to give a go bye to the principles of natural justice incorporated in the aforementioned Ordinance. â?¡!..""",

Admittedly, the authority passing any adverse order against any person is legally and morally bound to adhere to the principles of natural justice. But in",  
the case in hand, the situation is entirely different. As pointed out earlier, the respondent himself admitted his guilt at two junctures. Firstly, at the time",  
when he was apprehended in the examination centre and secondly, before the Unfair Means Committee where he appeared on 12.06.2019 alongwith",  
an explanation. Since there was a clear cut admission/confession of the respondent himself, there was no need to go into the further details as to",  
whether the smart watch being used by the respondent was actually capable of being used for unfair means or not. No charge was required to be,  
framed and proved in such an eventuality.,

Similar question came before the Hon'ble Supreme Court in Surjeet Singh Bhamra vs. Bank of India & others, 2016(4) SCC 204, wherein the",  
appellant was posted as Branch Manager, Bank of India, Panagar Branch, Jabalpur Region from 04.07.1996 to 26.05.1999. A memo was issued by",  
the Chief Regional Manager, Bank of India, Jabalpur to the appellant mentioning therein that during his tenure as Manager of Panagar Branch, certain",  
irregularities/lapses were reported in disbursement of loans.,

He was served with a charge-sheet. The appellant filed his reply to the charge-sheet and accepted all the charges contained therein unconditionally.,

Accordingly, the Chief Manager, Dewas Branch and Disciplinary Authority, passed an order awarding the consolidated penalty of reduction in the pay",  
of the appellant by five stages in the time scale for a period of 3 years and on the expiry of such period, the reduction was to have the effect of",

postponing the future increments of his pay to the extent in terms of Regulation No.4(1) of Bank of India Officer Employeesâ?? (Discipline &,

Appeal) Regulations, 1976 ( in short â??the Regulationsâ??). However, the Supreme Court upheld the imposition of punishment while holding :-",

48. As a matter of fact, since the appellant admitted the charges leveled against him in the charge-sheet, there was no need for the Bank to have held",

any inquiry into the charges. When the charges stood proved on admission of the appellant, the Bank was justified in imposing punishment on the",

appellant as prescribed in the Rules. We therefore, find no ground to interfere in the punishment order as we also find that having regard to the nature",

and gravity of the charge, the punishment imposed on the appellant appears to

be just and proper, calling no interference therein."",

Learned counsel for the respondent has vehemently argued that the definition of any other mode of communication is not exhaustive and it does,

not mention as to what sort of mode of communication is to be included therein. This contention is totally misconceived and deserves to be discarded,

at the very outset. For the sake of repetition, it would be pertinent to mention here that mere possession of smart watch, even without being connected",

with any mobile phone or any mode of electronic communication, can be said to be an unfair mean as contemplated under Regulation 10(z)(i)",

reproduced above. Moreover, it is for the competent authority, who has framed the rules, to interpret the rules in its own way. The respondent cannot",

be allowed to blow hot and cold in the same breath. On the one hand, he admitted his guilt of possessing the smart watch and at the same time, he is",

expecting the authority concerned to act in a fair and reasonable manner,

It is further submitted on behalf of respondent that there was no evidence that the smart watch was being used or capable of being used as unfair,

mean. Even this submission is meaningless. If the respondent was innocent, he could have proved his innocence by placing reliance upon the report of",

any technical expert either before the Unfair Mean Committee or before the learned Single Judge or even before us.,

For the foregoing reasons, we find considerable merit in the appeal and while reversing the impugned judgment of learned Single Judge, we allow the",

instant appeal.,