

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case No:- WP(C) No. 2185/2021

Date of Pronouncement:-07.11.2025

Uploaded on:- 17.11.2025

Subash Chander

.... Petitioner(s)

Through: Mr. F. A Natnoo, Advocate.

Vs

UT of J&K and and Anr.

..... Respondent(s)

Through: Mr. Suneel Mahlotra, GA.

Coram: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

ORDER (ORAL)

1. The petitioner in the instant petition filed under Article 226 of the Constitution of India states to have been appointed as a consolidated worker in the month of March 2000 in Municipal Committee, Katra and subsequently his services utilized as a Computer Assistant as well as Driver and also completed one year Sanitary Inspector Course and simultaneously also graduated from University of Jhansi through correspondence mode in the year 2006 and consequently, his case came to be recommend for regularization of his services to respondent 2 vide Communication dated 23.02.2017 and that thereafter after rendering 21 years of services with the respondent, the petitioner came to be posted as Sanitary Inspector as per norms and procedures against an available post and while working as such Sanitary Inspector, the petitioner have had to

disburse the wages to temporary Safai Karamcharis and that during an audit conducted of the Municipal Committee in question, an amount of ₹1,30,59,250/- was alleged to be outstanding/unadjusted against the petitioner, resulting into issuance of an order bearing No. 307-DULBJ of 2021 dated 22.09.2021, whereby the services of the petitioner came to be disengaged with immediate effect besides initiating recovery proceedings against the petitioner from his known sources and assets/property as arrears of land revenue.

2. The petitioner has assailed order the dated 22.09.2021 in the instant petition on multiple grounds including on the ground that the petitioner was never issued a notice before issuance of the impugned order or else provided an opportunity of hearing and, as such, was condemned unheard by the respondents upon issuance of the impugned order.
3. **Objections** to the petition have been filed by the respondents, wherein the petition is being opposed on the premise that the snap audit conducted in the Municipal Committee in question for the period 04/2012 to 03/2016 under the supervision of Accounts Officer, as also a subsequent audit conducted for the period of 23.02.2017 to 04.03.2017, grave irregularities, mismanagement and embezzlement in the Municipal Committee in question surfaced, as a consequence whereof, a detailed inquiry was recommended to be held in the matter, whereupon a fact finding Committee was constituted by respondent 2 on 18.03.2021, which Committee based on the available records, opined that the petitioner is found involved for having made advances unlawfully of the amount of

money of the Municipal Committee in question in violation of rules without maintaining proper accounts and in fact, in essence, committed fraud causing financial loss to the Municipal Committee in question, as a result whereof, it came to be concluded that the petitioner's continuance in the Municipal Committee is not warranted and that he has no right to continue in the Municipal Committee in question, as a result whereof, his services came to be disengaged in terms of order dated 22.09.2021 and the petitioner was also directed to deposit an amount of ₹1,30,59,250/- in the account of Municipal Committee, Katra.

Heard learned counsel for the parties and perused.

4. Perusal of the record available on the file in general and the reply filed to the petition by the respondents in particular nowhere envisages that the petitioner was ever either issued a show-cause notice or else associated in the inquiry conducted by the Committee constituted by the respondents for inquiring into alleged financial irregularities. Record also does not tend to show that prior to the issuance of the impugned order of disengagement of the petitioner coupled with the ordered of recovery for the amount in question, the respondents provided an opportunity of hearing to the petitioner.
5. Law is well settled that before issuing an order against a person, which would have adverse consequences thereof, principle of natural justice shall be adhere to. A reference in this regard to the judgment of the Apex Court passed in case titled as, ***“Dharampal Satyampal Limited Vs. Deputy Commissioner of Central***, reported in ***2015 (8) SCC 519***” would

be relevant herein, wherein at paras 21, 24 and 28, following has been held:-

“[21. In common Law, the concept and doctrine of natural justice, particularly which is made applicable in the decision-making by judicial and quasi-judicial bodies, has assumed a different connotation. It is developed with this fundamental in mind that those whose duty is to decide, must act judicially. They must deal with the question referred both without bias and they must give (sic an opportunity) to each of the parties to adequately present the case made. It is perceived that the practice of aforesaid attributes in mind only would lead to doing justice. Since these attributes are treated as natural or fundamental, it is known as “natural justice”. The principles of natural justice developed over a period of time and which is still in vogue and valid even today are: (i) rule against bias i.e. nemo debet esse judex in propria sua causa; and (ii) opportunity of being heard to the party concerned i.e. audi alteram partem. These are known as principles of natural justice. To these principles a third principle is added, which is of recent origin. It is the duty to give reasons in support of decision, namely, passing of a “reasoned order”.

24. The principles have a sound jurisprudential basis. Since the function of the judicial and quasi-judicial authorities is to secure justice with fairness, these principles provide a great humanizing factor intended to invest law with fairness to secure justice and to prevent miscarriage of justice. The principles are extended even to those who have to take an administrative decision and who are not necessarily discharging judicial or quasi-judicial functions. They are a kind of code of fair administrative procedure. In this context, procedure is not a matter of secondary importance as it is only by procedural fairness shown in the decision-making that a decision becomes acceptable. In its proper sense, thus, natural justice would mean the natural sense of what is right and wrong.”

“28. It is on the aforesaid jurisprudential premise that the fundamental principles of natural justice, including audi alteram partem, have developed. It is for this reason that the courts have consistently insisted that such procedural fairness has to be adhered to before a decision is made and infraction thereof has led to the quashing of decisions taken. In many statutes, provisions are made ensuring that a notice is given to a person against whom an order is likely to be passed before a decision is made, but there may be instances where though an authority is vested with the powers to pass such orders, which affect the liberty or property of an individual but the statute may not contain a provision for prior hearing. But what is important to be noted is that the applicability of principles of natural justice is not dependent upon any statutory provision. The principle has to be mandatorily applied

irrespective of the fact as to whether there is any such statutory provision or not.”]

6. Having regard to the aforesaid position obtaining in the matter, inasmuch as the principles of law laid down qua the principles of natural justice, the only inescapable conclusion that could be drawn is that the respondents have observed the said principles of natural justice in breach qua the petitioner before issuance of the impugned order.
7. Viewed thus, for aforesaid reasons, the instant petition is succeeds, as a consequence whereof, the impugned order bearing No. 307-DULBJ of 2021 dated 22.09.2021 issued by the respondent 2 shall stand quashed and respondents are directed to treat the petitioner to be in service, as if the impugned order has never been issued. The respondents, however, shall be at liberty to proceed against the petitioner in the matter, if they choose so only in accordance with the law within a period of two months from the date a copy of this order is produced by the petitioner before the respondents and in the event of failure of the respondents to undertake any such action against the petitioner within the said stipulated period, the respondents shall be deemed to have forfeited the said liberty.
8. *Disposed of* along with connected applications.

(Javed Iqbal Wani)
Judge

Jammu
07.11.2025
Javid Iqbal

<i>Whether the order is speaking?</i>	<i>Yes</i>
<i>Whether the order is reportable?</i>	<i>Yes</i>