

Neutral Citation No. - 2025:AHC:108089

Reserved on 03.07.2025

Delivered on 09.07.2025

Court No. - 5

Case :- WRIT - A No. - 547 of 2017

Petitioner :- Maqsood Alam

Respondent :- State Of U.P. And 5 Ors.

Counsel for Petitioner :- Pankaj Srivastava

Counsel for Respondent :- C.S.C., Mohit Singh, O.P. Singh, Satyam Singh, Shiv Nath Singh, Sushil Kumar Rao

Hon'ble Saurabh Shyam Shamshery, J.

1. Petitioner has rendered 38 years of service at U.P. State Warehousing Corporation, however, at the verge of his retirement he was dismissed from service and his departmental appeal was also dismissed.

2. As per averments made in this writ petition, on alleged storage loss due to moisture gain and moisture loss recovery orders were also passed in as many as 14 departmental inquiries which come to about Rs. 33 lacs, i.e., an amount equivalent to post retiral dues of petitioner.

3. Sri Pankaj Srivastava, learned counsel for petitioner has argued at length and refers pleadings and various documents that there was no storage loss and artificial calculation was made by respondents to create the storage loss despite in the accounts loss was already waived off and, therefore, not reflected in balance sheets of relevant years. During inquiry petitioner sought informations however, it was never provided, therefore, he was not able to submit detailed reply and orders were passed ex parte at his back. He has referred a chart that as many as 70 employees have suffered similar nature of disciplinary proceedings and similar fate.

4. Learned counsel for petitioner also submitted that regulations with regard to calculation of storage loss were not framed in U.P. State Warehousing Corporation though other State Corporations have framed it and by referring provisions of other States, it was submitted that there was no storage loss. Dereliction of duty was also denied. Various orders were

passed by this Court in other litigations were to take decision in relation to rates as prescribed by Food Corporation of India in regard to storage fee and losses due to storage, however, no decision was taken under Section 42 of the Warehousing Corporation Act, 1962 for framing regulations. Learned counsel has vehemently referred a chart that no storage loss was made. Scanned copy of said chart is pasted hereinafter:

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1	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
2	SL. NO	DEPARTMENTAL ENQUARY	STOREGE YEAR & NAME OF COMMODITY	ACTUAL QUANTITY RECEIVED IN GODOWNS IN QUINTALS	Y OF ACTUAL STOREGE IN FIGURES IN QUINTALS	VALUE OF LOSS /GAIN DUE TO MOISTURE CALCULATED IN TERMS OF RUPEES	DATE OF ENQUARY STARTED	DATE WHEN CHARGE SHEET RECEIVED BY PETITIONER	DATE OF REPLY SUBMITTED BY PETITIONER TO CHARGE SHEET	ENQUARY REPORT SUBMITTED BY ENQUARY OFFICER	DATE WHEN MD GAVE REPORT TO PETITIONER	DATE WHEN PETITIONER SUBMITTED REPLY TO MD	% OF LOSS AFTER DEDUCTION OF 04% AND VALUE CUT	FOOD GRAIN OF STATE POOL OR FCI	WHETHER MOISTURE LOSS IS WITHIN PERMISSIBLE LIMITS
3	1	1435 / 30.4.2016	2007-08 OF RICE	253925	409	531443	18.02.2016	23.02.2016	08.03.2016	22.03.2016	30.03.2016	01.04.2016	0.28%	STATE POOL	YES
4	2	1496 / 30.4.2016	SEPT 10 TO SEPT.2011 WHEAT	84047	103	137654	21.06.2014	03.07.2014	10.07.2014	28.08.2014	28.08.2014	09.09.2014	0.77%	FCI	YES
5	3	1'98 / 30.4.2016	2005-2006 OF RICE	383239	557	368695	09.12.2014	7.12.2014	05.01.2015	19.02.2015	04.03.2015	16.03.2015	0.08%	STATE POOL	YES
6	4	1499 / 30.4.2016	2004-2005 OF RICE	260702	574	563005	25.07.2013	28.09.2013	02.12.2014	18.12.2014	03.01.2015	13.01.2015	0.40%	STATE POOL	YES
7	5	1503 / 30.4.2016	DECEMBER 2015 OF RICE	48986	41	108083	06.02.2016	18.02.2016	29.02.2016	14.03.2016	18.03.2016	29.03.2016	1.03%	FCI	YES
8	6	1503 / 30.4.2016	JAN 2011 AND AUG 2011 RICE	50795	41	74249	15.12.2014	20.12.2014	30.12.2014	08.03.2016	21.03.2016	18.03.2016	0.95%	FCI	YES
9	7	1505 / 30.4.2016	NOVEMBER 2014 OF RICE	75144	3	8829	03.02.2016	16.02.2016	29.02.2016	02.04.2016	06.04.2016	07.04.2016	0.11%	FCI	YES
10	8	1506 / 30.4.2016	NOVEMBER 2015 OF RICE	29047	3	8708	06.01.2016	20.01.2016	27.01.2016	14.03.2016	18.03.2016	29.03.2016	1.03%	FCI	YES
11	9	1510 / 30.4.2016	MAY 2015 OF RICE	24149	1	461	15.07.2015	25.07.2015	17.08.2015	12.10.2015	20.10.2015	28.10.2015	0.38%	FCI	YES
12	10	1511 / 30.4.2016	OCTOBER 2015 RICE	29340	1	4906	11.12.2015	07.01.2016	27.01.2016	22.03.2016	30.03.2016	01.04.2016	1.00%	FCI	YES
13	11	1513 / 30.4.2016	DEC 2011 TO JAN 2013 WHEAT	168263	239	374302	23.07.2014	26.08.2014	11.09.2014	22.03.2016	30.03.2016	01.04.2016	0.70%	FCI	YES
14	12	1514 / 30.4.2016	JANUARY AND APRIL 2015 RICE	64020	1	528	25.06.2015	08.07.2015	04.09.2015	24.11.2015	17.12.2015	11.01.2016	0.02%	FCI	YES
15	13	1516 / 30.4.2016	2004 - 2005 OF WHEAT	139306	42	35046	17.05.2014	04.07.2014	10.07.2015	21.01.2015	07.07.2015	21.09.2015	0.12%	STATE POOL	YES
16	14	1518 / 30.4.2016	2009 - 2010 OF RICE	271151	666	1078351	17.10.2014	18.10.2014	03.11.2014	18.03.2016	07.04.2016	11.04.2016	1.70%	STATE POOL	YES
17	TOTAL			1882114	2481	3294260									
18	POST RETIRAL DUES WITHHELD					3500000									
19	DATE OF QUASHING OF STATE GOVT ORDER DATED 16.08.2003 BY HON'BLE HIGH COURT IS 18.07.2016														
20	ALL CHARGE SHEETS GIVEN AFTER THE QUASHING OF THE ORDER ON 18.07.2013.														
21	FIRST ENQUARY INITIATED ON 25.07.2013 MUCH AFTER THE QUASHING ORDER BY THE HIGH COURT.														
22	EX MD MR OMKAR YADAV INFORMED TO GOVT THAT THER IS NO POLICY IN EXISTANCE ON 21.01.2014														
23	TOTAL 5 CASES OF STATE POLLAND 9 CASES OF FCI WHICH ARE WRIGHT OFF BY FCI ITSELF														

5. Per contra, Sri O.P. Singh, learned Senior Advocate assisted by Sri Sushil Kumar Rao, learned counsel for Respondents-3 to 5, has referred the proceedings undertaken during departmental inquiries that despite various communications, petitioner was failed to submit any substantial reply and storage loss was determined on basis of existing procedure and process. Learned Senior Advocate has denied manner of calculation made in above referred chart.
6. Heard learned counsel for parties and perused the material available on record.

7. During pendency of this writ petition, original petitioner has died and his legal heirs are on record.

8. It is well settled that in normal circumstances, Courts are slow in causing interference in the orders passed in departmental proceedings. For reference relevant part of a judgment passed by Supreme Court in the case of **State of Rajasthan v. Bhupendra Singh, 2024 SCC OnLine SC 1908** is mentioned hereinafter:

“23. The scope of examination and interference under Article 226 of the Constitution of India (hereinafter referred to as the ‘Constitution’) in a case of the present nature, is no longer res integra. In State of Andhra Pradesh v. Sree Rama Rao, AIR 1963 SC 1723, a 3-Judge Bench stated:

‘7.... The High Court is not constituted in a proceeding under Article 226 of the Constitution a Court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution.’

24. The above was reiterated by a Bench of equal strength in State Bank of India v. Ram Lal Bhaskar, (2011) 10 SCC 249. Three learned Judges of this

Court stated as under in State of Andhra Pradesh v. Chitra Venkata Rao, (1975) 2 SCC 557:

‘21. The scope of Article 226 in dealing with departmental inquiries has come up before this Court. Two propositions were laid down by this Court in State of A.P. v. S. Sree Rama Rao [AIR 1963 SC 1723: (1964) 3 SCR 25:(1964) 2 LLJ 150]. First, there is no warrant for the view that in considering whether a public officer is guilty of misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court must be applied. If that rule be not applied by a domestic tribunal of inquiry the High Court in a petition under Article 226 of the Constitution is not competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not a court of appeal under Article 226 over the decision of the authorities holding a departmental enquiry against a public servant. The Court is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Second, where there is some evidence which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court to review the evidence and to arrive at an independent finding on the evidence. The High Court may interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. The departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there is some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226.

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25. In State Bank of India v. S.K. Sharma, (1996) 3 SCC 364, two learned Judges of this Court held:

‘28. The decisions cited above make one thing clear, viz., principles of natural justice cannot be reduced to any hard and fast formulae.

As said in Russell v. Duke of Norfolk [[1949] 1 All ER 109 : 65 TLR 225] way back in 1949, these principles cannot be put in a strait-jacket. Their applicability depends upon the context and the facts and circumstances of each case. (See *Mohinder Singh Gill v. Chief Election Commr.* [(1978) 1 SCC 405 : (1978) 2 SCR 272]) The objective is to ensure a fair hearing, a fair deal, to the person whose rights are going to be affected. (See *A.K. Roy v. Union of India* [(1982) 1 SCC 271:1982 SCC (Cri) 152] and *Swadeshi Cotton Mills v. Union of India* [(1981) 1 SCC 664].) As pointed out by this Court in *A.K. Kraipak v. Union of India* [(1969) 2 SCC 262], the dividing line between quasi-judicial function and administrative function (affecting the rights of a party) has become quite thin and almost indistinguishable — a fact also emphasised by House of Lords in *Council of Civil Service Unions v. Minister for the Civil Service* [[1984] 3 All ER 935 : [1984] 3 WLR 1174 : [1985] A.C. 374, HL] where the principles of natural justice and a fair hearing were treated as synonymous. Whichever the case, it is from the standpoint of fair hearing — applying the test of prejudice, as it may be called — that any and every complaint of violation of the rule of *audi alteram partem* should be examined. Indeed, there may be situations where observance of the requirement of prior notice/hearing may defeat the very proceeding — which may result in grave prejudice to public interest. It is for this reason that the rule of post-decisional hearing as a sufficient compliance with natural justice was evolved in some of the cases, e.g., *Liberty Oil Mills v. Union of India* [(1984) 3 SCC 465]. There may also be cases where the public interest or the interests of the security of State or other similar considerations may make it inadvisable to observe the rule of *audi alteram partem* altogether [as in the case of situations contemplated by clauses (b) and (c) of the proviso to Article 311(2)] or to disclose the material on which a particular action is being taken. There may indeed be any number of varying situations which it is not possible for anyone to foresee. In our respectful opinion, the principles emerging from the decided cases can be stated in the following terms in relation to the disciplinary orders and enquiries : a distinction ought to be made between violation of the principle of natural justice, *audi alteram partem*, as such and violation of a facet of the said principle. In other words, distinction is between “no notice”/“no hearing” and “no adequate hearing” or to put it in different words, “no opportunity” and “no adequate opportunity”. To illustrate — take a case where the person is dismissed from service without hearing him altogether (as in *Ridge v. Baldwin* [[1964] A.C. 40 : [1963] 2 All ER 66 : [1963] 2 WLR 935]). It would be a case falling under the first category and the order of dismissal would be invalid — or void, if one chooses to use that expression (*Calvin v. Carr* [[1980] A.C. 574 : [1979] 2 All

ER 440 : [1979] 2 WLR 755, PC]). But where the person is dismissed from service, say, without supplying him a copy of the enquiry officer's report (Managing Director, ECIL v. B. Karunakar [(1993) 4 SCC 727 : 1993 SCC (L&S) 1184 : (1993) 25 ATC 704]) or without affording him a due opportunity of cross-examining a witness (K.L. Tripathi [(1984) 1 SCC 43 : 1984 SCC (L&S) 62]) it would be a case falling in the latter category — violation of a facet of the said rule of natural justice — in which case, the validity of the order has to be tested on the touchstone of prejudice, i.e., whether, all in all, the person concerned did or did not have a fair hearing. It would not be correct — in the light of the above decisions to say that for any and every violation of a facet of natural justice or of a rule incorporating such facet, the order passed is altogether void and ought to be set aside without further enquiry. In our opinion, the approach and test adopted in B. Karunakar [(1993) 4 SCC 727 : 1993 SCC (L&S) 1184 : (1993) 25 ATC 704] should govern all cases where the complaint is not that there was no hearing (no notice, no opportunity and no hearing) but one of not affording a proper hearing (i.e., adequate or a full hearing) or of violation of a procedural rule or requirement governing the enquiry; the complaint should be examined on the touchstone of prejudice as aforesaid.”

9. From perusal of impugned orders, it is evident that original petitioner appears to be not very diligent and has not submitted his reply based on facts and law and has denied allegation of storage loss vaguely, whereas in the writ petition, not only various averments were made and referred but various arguments were also raised by learned counsel for petitioner on basis of record.

10. The Court is of the view that principles of natural justice were substantially complied with in all departmental proceedings since charge sheet were issued and petitioner has submitted reply and so far as the main argument is concerned, that manner of calculation of storage loss was not correct, or it ought to have been calculated in terms of regulations made in other States, it may be a ground to quash the impugned orders and to remit the case to continue with departmental proceeding from the stage of inquiry, however, since petitioner has expired during pendency of this writ petition, therefore, this exercise would be a futile exercise.

11. In aforesaid circumstances, the Court is of the view that original petitioner was not able to discharge his duties diligently as Incharge of Godown and there were storage loss which led to loss to Corporation, therefore, it would be a case of dismissal. The Court is further of the opinion that on basis of argument raised, it may be a case where calculation of loss was not determined in correct manner which requires re-determination. However, since petitioner has already expired, therefore, such exercise cannot be undertaken. There was no procedure error in departmental proceedings.

12. In view of above, since original petitioner is guilty of his own conduct as he failed to submit proper reply to charge sheets despite various opportunities and even he had not appeared for personal hearing, therefore, it cannot be said or observed that there was no storage loss and on proved misconduct, punishment of dismissal does not appear to be shockingly disproportionate.

13. As referred above, so far as calculation of storage loss is concerned, since on basis of material available and chart as well as that there was no specific regulations in U.P. State Warehousing Corporation, for this purpose the Court is of the view that it requires interference. Accordingly, penalty imposed for loss of storage is set aside and its legal consequence shall follow. The punishment of dismissal does not require any interference.

14. With aforesaid observations/ directions, this writ petition is disposed of.

Order Date :- 09.07.2025

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