



2025:AHC:145394

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 11008 of 2025

Munni Lal Patel

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Anil Kumar, Syed Wajid Ali
Counsel for Respondent(s)	:	C.S.C.

Court No. - 4

HON'BLE AJIT KUMAR, J.

1. Heard Shri Syed Wajid Ali, learned counsel for petitioner and Shri Sanjeev Singh, learned Additional Advocate General assisted by Shri R.S. Umrao, learned Standing Counsel appearing for State respondents.

2. This petition under Article 226 of the Constitution questions the propriety of the disciplinary authority in passing the order of punishment dated 24.07.2024 as well as the order dated 15-16/5/2025 passed by the appellate authority affirming the order of punishment. By the order of punishment the disciplinary authority has reverted the petitioner from the post of Joint Block Development Officer to Assistant Block Development Officer while revoking the suspension order and reinstating him in service under the order dated 24.07.2024.

3. The disciplinary authority has relied upon the findings returned by the inquiry officer bringing home the charges levelled against the charged officer in the charge-sheet and thereby holding the charged officer to be guilty of indiscipline and dereliction in discharge of official duty, inasmuch as he was held guilty for not obeying the directives issued by the higher officers as well as wantonness in his character.

4. While the petitioner was issued with show cause notice and he submitted reply, the reply was also not found to be satisfactory and accordingly the explanation offered was brushed aside while accepting the report of the inquiry officer.

5. While assailing the orders impugned herein this petition petitioner has chiefly taken a ground and so also it has been argued by learned counsel appearing for the petitioner that the entire domestic enquiry was conducted by the inquiry officer in a slipshod manner, inasmuch as *de hors* the procedure prescribed under Rule 7 of the U.P. Government Servant (Discipline and Appeal) Rules, 1999 (for short 'Discipline and Appeal Rules, 1999).

6. It is submitted that after the petitioner was served with the charge-sheet on 21.08.2023 containing as many as five articles of charges, he submitted a detailed reply to the inquiry officer to each charge on 04.12.2023 and further demanded personal hearing in the matter of inquiry into the charges, also requested for production of documents that had been used as evidence in support of the charges relating to the same i.e. 'list of dispatch register, receipt register and administrative register of the concerned desk clerk of the office of Block Development Officer' should also be placed in the inquiry. It was further demanded in the reply that in respect of the charge no.1 and 4 that related to the petitioner's conduct in not complying with the directives and order issued by the higher officer that he had not been participating in the meetings organized, such persons who corroborated the evidence should also be summoned. However, the inquiry officer neither fixed any date, time or place to hold oral inquiry, nor summoned the concerned persons and by appreciating the documents and evidence of the petitioner *ex parte*, on its

own, proceeded to finalize inquiry and submitted inquiry report.

7. Shri Syed Wajid Ali, learned counsel for petitioner has vehemently argued that the inquiry officer was not justified in conducting the inquiry without following the procedure prescribed under Rule 7 of the Discipline and Appeal Rules, 1999 which required production of evidence not only at the end of the delinquent employee but also oral examination of delinquent employee and departmental witnesses. It is argued that specially in the circumstances when petitioner himself demanded for oral inquiry by the domestic inquiry officer, the inquiry officer was not justified in not fixing time, date and place for holding such inquiry. Thus, the manner in which the domestic inquiry was conducted, according to learned counsel was a procedure to be described as a flawed one resulting in an unsustainable inquiry report. Replying to the show cause notice Shri Syed Wajid Ali, learned counsel for petitioner has questioned the inquiry report on various grounds particularly for non-appreciation of the highlighted portion of his reply and not permitting the examination of a crucial witness by summoning him. It is argued by Shri Wajid Ali, learned counsel that the findings returned bringing home the charges are vitiated for want of compliance of statutory procedure prescribed under Rule 7 of the Discipline and Appeal Rules, 1999 and so also the order of punishment is bad and also the order passed by the appellate authority affirming the order of punishment.

8. Shri Syed Wajid Ali, learned counsel for petitioner has placed reliance upon the following authorities:

9. Before the Court could have examined the records, Shri Sanjeev Singh, learned Additional Advocate General assisted by Shri R.S. Umrao, learned Standing Counsel fairly concedes that records do not reveal

factum of oral inquiry, nor the records show any order sheet/ note sheet of inquiry proceedings indicative of any time and date fixed by the inquiry officer requiring participation of the charged officer and his examination and examination of witnesses. He argues that though inquiry report is absolutely silent on that count, but since the documents that were placed before the inquiry officer were not specifically denied and the petitioner's reply has been duly considered and discussed by the inquiry officer, the domestic inquiry cannot be claimed to be vitiated in law just for want of oral inquiry. Shri Sanjeev Singh, learned Additional Advocate General has argued that even the disciplinary authority had also given ample opportunity to the petitioner by way of show cause notice and petitioner's reply has been duly considered vis a vis the charges levelled in the charge-sheet and the findings returned by the inquiry officer in its report and, hence, it cannot be said that there was no reasonable opportunity of hearing afforded to the petitioner. However, Shri Sanjeev Singh, learned Additional Advocate General could not dispute that oral examination is mandatory requirement under Rule 7(4) of the Discipline and Appeal Rules, 1999 which should be adhered to in matters of domestic inquiry.

10. Having heard learned counsel for the respective parties and having perused the records, I find this to be admitted position of fact that in the domestic enquiry conducted by the inquiry officer in respect of the charges levelled in the charge-sheet framed and issued setting into motion the disciplinary proceedings under the the inquiry officer did not follow the procedure by holding any oral inquiry in order to appreciate this, Rule 7 of the Discipline and Appeal Rules, 1999 in its entirety is reproduced below:

“7. Procedure for imposing major penalties- Before imposing any major penalty on a Government servant, an inquiry shall be held in the following manner:

(i) The disciplinary authority may himself inquire into the charges or appoint an authority subordinate to him an Inquiry Officer to inquire into the charges.

(ii) The facts constituting the misconduct on which it is proposed to take action shall be reduced in the form of definite charge or charges to be called charge-sheet. The charge-sheet shall be approved by the disciplinary authority.

Provided that where the appointing authority is Governor the charge-sheet may be approved by the Principal Secretary or the Secretary; as the case may be, of the concerned department.

(iii) The charges framed shall be so precise and clear as to give sufficient indication to the charged Government Servant of the facts and circumstances against him. The proposed documentary evidence and the name of witnesses proposed to prove the same along with oral evidence, if any, shall be mentioned in the charge-sheet.

(iv) The charged Government servant shall be required to put in a written statement of his defence in person on a specified date which shall not be less than 15 days from the date of issue of charge-sheet and to state whether he desires to cross-examine any witness mentioned in the charge-sheet and whether desires to give or produce evidence in his defence. He shall also be informed that in case he does not appear or file the written statement on the specified date, it will be presumed that he has none to furnish and Inquiry Officer shall proceed to complete the inquiry *ex parte*.

(v) The charge-sheet, alongwith the copy of the documentary evidences mentioned therein and list of witnesses and their statements, if any, shall be served on the charged Government servant personally or by registered post at the address mentioned in the official records. In case the charge-sheet could not be served in aforesaid manner, the charge-sheet shall be served by publication in a daily newspaper having wide circulation:

Provided that where the documentary evidence is voluminous, instead of furnishing its copy with charge-sheet, the charged Government servant shall be permitted to inspect the same before the Inquiry Officer.

(vi) Where the charged Government servant appears and admits the charges, the Inquiry Officer shall submit his report to the disciplinary authority on the basis of such admission.

(vii) Where the charged Government servant denies the charges, the Inquiry Officer shall proceed to call the witnesses proposed in the charge-sheet and record their oral evidence in presence of the charged Government servant who shall be given opportunity to cross-examine such witnesses. After recording the aforesaid evidence, the Inquiry Officer shall call and record the oral evidence with the charged Government servant desired in his written statement to be produced in his defence:

Provided that the Inquiry Officer may for reasons to be recorded in writing to call a witness.

(viii) The Inquiry Officer may summon any witness to give evidence or require any person to produce documents before him in accordance with the provisions of the Uttar Pradesh Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1976.

(ix) The Inquiry Officer may ask any question he pleased, at any time of any witness or from person charged with a view to discover the truth or to obtain proper proof of facts relevant to charges.

(x) Where the charged Government servant does not appear on the date fixed in the inquiry or at any stage of the proceeding inspite of the service of the notice on him or having knowledge of the date, the Inquiry Officer shall proceed with the inquiry *ex*

parte. In such a case the Inquiry Officer shall record the statement of witnesses mentioned in the charge-sheet in absence of the charged Government servant.

(xi) The disciplinary authority, if it considers it necessary to do so, may, by an order appoint a Government servant or a legal practitioner, to be known as “ Presenting Officer” to present on its behalf the case in support of the charge.

(xii) The Government servant may take the assistance of any other Government servant to present the case on his behalf but not engage a legal practitioner for the purpose unless the Presiding Officer appointed by the disciplinary authority is a legal practitioner of the disciplinary having regard to the circumstances of the case so permit:

Provided that this rule shall not apply in following cases:

(i) Where any major penalty is imposed on a person on the ground of conduct which has led to his conviction on a criminal charge; or

(ii) Where the disciplinary authority is satisfied that for reason to be recorded by it in writing, that it is not reasonably practicable to hold an inquiry in the manner provided in these rules; or

(iii) Where the Governor is satisfied that, in the interest of the security of the State, it is not expedient to hold an inquiry in the manner provided in these rules. ”

(Emphasis added)

11. The relevant provisions quoted and highlighted hereinabove, clearly provide for inquiry officer to follow the procedure, like for instance (i) where the charged officer admits the charge, the inquiry officer shall submit report to the disciplinary authority on the basis of such admission, (ii) whereas in the event charged officer denies the charges then the inquiry officer shall have to call the witnesses given in the charge-sheet and record their oral evidence in presence of the charged officers, (iii) after recording evidence of the departmental witnesses the charged government servant shall also be required to give his oral evidence, (iv) however proviso to rule 7 permits the inquiry officer to exercise its discretion to summon any witnesses to give evidence or any person to produce document in accordance with the provisions of U.P. Departmental Inquiry (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1976, (v) the proviso also permits the inquiry officer to refuse to call a witness for reasons to be recorded by him in writing, (vi) the inquiry officer may further ask any question at any time from a witness or from the charged officer with a view to

discovering the truth or obtain proof of fact relevant to the charges; and (vii) in the event the charged government servant does not appear on the date fixed in inquiry despite service of notice, the inquiry officer may proceed with inquiry *ex parte* and in such case he may record statement of witnesses mentioned in the charge-sheet even in the absence of charged government servant.

12. Testing the facts of the case upon rule 7 of the Discipline and Appeal Rules, 1999 as discussed above, I find that the petitioner had made specific prayer in his reply to the inquiry officer that he should be afforded opportunity of personal hearing and persons who made statement that the petitioner would not be participating in the meeting organized or the higher officers should also be summoned. The intention, therefore, was clear that petitioner wanted oral examination and also production of witnesses so as to cross-examine them. I further find from the charge-sheet issued to the petitioner that letter of Block Development Officer concerned dated 12.07.2023 was evidence in support of charge No. 1, again the same letter is used as evidence in support of charge No. 2, whereas the letter of Chief Development Officer dated 09.04.2023 was used as his evidence in support of the charge No.3, and again another letter by the same officer dated 02.05.2023 was used as evidence in support of charge No. 4 and yet another letter of the District Development Officer dated 04.05.2023 was taken as evidence in support of charge no. 5. Petitioner gave detailed reply to each of the charges highlighting that forged and manipulated letters were prepared to falsely frame him into charges of negligence, disobedience and to prove him as man of wanton character. The relevant part of his reply dated 04.12.2023 is reproduced below:

“व्यक्तिगत सुनवाई के अवसर-

इस सम्बन्ध में अनुरोध है कि मैं व्यक्तिगत सुनवाई का अवसर चाहता हूँ जिनके बिन्दु निम्नवत हैं-

1- आरोप संख्या 1,2,3,4,5 में दर्शाये गये पत्रों जिन्हे आरोपों में साक्ष्य के रूप में प्रयोग किया गया है उक्त निर्गत पत्रों से सम्बन्धित अधिकारी खण्ड विकास अधिकारी, सम्बन्धित पटल सहायक को पत्रों से सम्बन्धित डिस्पैच रजिस्टर, रिसीट रजिस्टर, वितरण रजिस्टर के साथ सुनवाई में उपस्थित रहने के निर्देश देना चाहें।

2- आरोप संख्या 01 से 04 में लगाये गये के अतिरिक्त आरोप संख्या 5 में किया गया कम्पन कि इसव पूर्व भी आदेशों / निर्देशों का परिपालन नहीं किया गया एवं उच्चाधिकारियों की बैठक में प्रतिभग नहीं किय गया, की छायाप्रतियाँ, जिनका अनुपालन अधोहस्ताक्षरी द्वारा नहीं किया गया तथा कथित आदेश/निर्देश उच्चाधिकारियों की बैठक के आदेश अधोहस्ताक्षरी को प्राप्त कराने के प्रमाण के साथ सम्बन्धित व सुनवाई में उपस्थित रहने के निर्देश देना चाहें।

उल्लेखनीय है कि जनपद में ख०वि०अ०/संयुक्त ख०वि०अ० के उपलब्ध होते हुए भी शासना संख्या 2983 दिनांक 27 जून 2006, पत्र संख्या R-408 दिनांक 27 मई 2019 एवं शासनादेश दिनांक जनवरी 2023 में उल्लिखित निर्देशों के विरुद्ध विकास खण्ड का प्रभार जनपद स्तरीय अधिकारियों स्वयं अधिग्रहीत कर लिया गया है तथा शासकीय कार्य करने के वाजिब हक एवं अवसर से संयुक्त ख विकास अधिकारियों को वंचित किया गया, जो जाँच का विषय है।

आरोप पत्र का उत्तर/ स्पष्टीकरण मय साक्ष्यों सहित आपकी सेवा में आवश्यक कार्यवाही हेतु प्रे है।”.

13. In view of the above discussions *qua* the charge sheet issued and the reply submitted by the petitioner and upon perusal of the last three paragraphs of reply of the petitioner, even a man of ordinary prudence would conclude that petitioner wanted certain documents to be produced in inquiry in his presence and also wanted that certain officers to be summoned for oral examination. However, the inquiry officer in total violation of the procedure prescribed under Rule 7 proceeded to hold inquiry and submitted a report dated 18.04.2024 bringing home the charges.

14. This Court as well as the Supreme Court has repeatedly held that

when a thing is required to be done in a particular manner then that thing should be done in that manner alone. In the case of **TATA Chemicals Limited v. Commissioner of Customs (Preventive), Jamnagar (2015)**

11 Supreme Court Cases 628 the Court has held thus:

"The Tribunal's judgment has proceeded on the basis that even though the samples were drawn contrary to law, the appellants would be estopped because their representative was present when the samples were drawn and they did not object immediately. This is a completely perverse finding both on fact and law. On fact, it has been more than amply proved that no representative of the appellant was, in fact, present at the time the Customs Inspector took the samples. Shri K.M. Jani who was allegedly present not only stated that he did not represent the Clearing Agent of the appellants in that he was not their employee but also stated that he was not present when the samples were taken. In fact, therefore, there was no representative of the appellants when the samples were taken. In law equally the Tribunal ought to have realized that there can be no estoppel against law. If the law requires that something be done in a particular manner, it must be done in that manner, and if not done in that manner has no existence in the eye of law at all. The Customs Authorities are not absolved from following the law depending upon the acts of a particular assessee. Something that is illegal cannot convert itself into something legal by the act of a third person."

(Emphasis added)

15. Considering the above judgment and having found the departmental inquiry to be *de hors* the procedure prescribed under Rule 7 of the 1999 Rules in the matter of **Prem Lata Mishra v. State of U.P. Writ A No. 44 of 2024** decided on 03.07.2025 I have held that the inquiry being *de hors* the Rules, was flawed one and deserved to be quashed.

16. Since the procedure prescribed under Rule 7 of the 1999 rules makes it mandatory for the inquiry officer to conduct oral inquiry, the inquiry officer was hidebound in law to hold oral inquiry unless and until he had recorded that it was for certain reasons that he could not summon the witnesses. There is no such recitals contained in the inquiry report which may justify non-summoning of witnesses and non-production of demanded documents like dispatch register, etc in inquiry proceedings proceedings held to investigate /inquire into the charges levelled against the petitioner that were demanded. Still further what is very astonishing

that the inquiry officer failed to even call the charged officer to give his oral evidence for which a specific prayer was made in the reply. The documents that have been relied upon has been claimed to be admitted one as those documents were used as evidence in support of the charges in the charge-sheet. The documents examined by the inquiry officer may not be sufficient to prove all the charges unless and until those documents are duly proved and recitals contained therein also stand duly corroborated in the oral inquiry. It has been held in the case of **State of Uttar Pradesh and others v. Saroj Kumar Sinha (2010) 2 Supreme Court Cases 772** that the inquiry officer is having the status of adjudicatory authority which is adjudicating upon the charges after not only duly evaluating and appreciating the documentary evidence produced in support of the charge and the reply made by the charged officer but also by getting those documents duly proved by the officers who had issued it. The dispatch register, etc. and summoning of the concerned clerk or officer was a basic thing which ought to have been satisfied before bringing home the charge by the inquiry officer, but unfortunately this procedure has not been adopted and the inquiry officer on his own by way of subjective satisfaction without giving any objective consideration to the material placed and the request made by the charged officer proceeded to bring home the charges. Such procedure is definitely a flawed procedure which cannot be approved.

17. In the judgment of this Court in the case of **Jay Singh v. State of U.P and 2 others Writ A No. 19047 of 2023**, this Court has dealt with this aspect of the matter and held that in the absence of an oral inquiry the charges if proved the inquiry report cannot be sustained in law and, hence, the order of punishment based upon the same as well as the order of the

appellate authority are also liable to be held unsustainable. However, the Court is conscious of the fact that once this Court finds that the procedure has not been followed and the orders impugned are liable to be quashed, the matter is to be remanded for decision afresh from the stage from where the procedure has gone flawed. In the case of **Managing Director ECIL Hyderabad etc v B. Karunakar etc etc AIR 1994 SC 1074**. Constitution Bench of Supreme Court has very categorically held that in matter of disciplinary proceedings if the proceedings have to be set aside then it should be remanded from the stage from which it has become erroneous and the status of the employee should be such as was on the date of passing of the impugned order.

18. In view of the above, writ petition succeeds and is allowed.

19. The inquiry report dated 18.04.2024 and the order of punishment dated 15-16/5/2025 are hereby quashed with all consequential benefits in the sense that status of petitioner shall remain the same as was on the date of passing of the order impugned. The matter is remanded for fresh inquiry from the stage of reply to the charge sheet submitted by the petitioner. The disciplinary authority shall appoint a new inquiry officer within a period of four weeks from the production of certified copy of this order to hold domestic inquiry afresh. This time the inquiry officer shall give due participation of hearing to the delinquent employee namely the petitioner in the inquiry and petitioner shall be permitted to examine the departmental witness in support of the documentary evidence. In the event inquiry officer does not want to summon any particular witness even upon the request being made by the petitioner, he shall record reasons for the same.

20. The domestic enquiry as directed above shall be concluded within a

maximum period of two months upon notice issued to the petitioner to participate in the inquiry by the inquiry officer. Soon after the report is submitted the disciplinary authority shall proceed to conclude the proceedings as per the findings returned in the inquiry report in due compliance of principles of natural justice within next one month's time.

(Ajit Kumar,J.)

August 22, 2025
Nadeem