



2026:AHC:189824-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 13569 of 2026

Pancham Singh

.....Petitioner(s)

Versus

Union of India and 3 others

.....Respondent(s)

Counsel for Petitioner(s)	: Avnish Tripathi
Counsel for Respondent(s)	: A.S.G.I., Prem Shanker Prasad

Chief Justice's Court

**HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.**

1. Heard Shri Avnish Tripathi, learned counsel for the petitioner and Shri Prem Shanker Prasad, learned counsel for contesting respondents No.1 to 3.
2. This writ petition has been filed challenging the order dated 04.08.2026 whereby the Central Administrative Tribunal, Allahabad Bench, Allahabad ('the Tribunal') has dismissed the Original Application No. 1258 of 2012 ('O.A.') filed by the petitioner declining to interfere in the order dated 06.02.2017 whereby the petitioner was dismissed from service, which order was not interfered with by a subsequent order dated 24.12.2021 passed by the respondents rejecting his review application. Further consequential reliefs claimed by the petitioner have also been denied by the Tribunal.

BRIEF FACTS :

3. The petitioner was selected and confirmed as Postal Assistant, Moradabad Division. When his educational documents were verified by the respondents, the same were found manufactured/fabricated; he was arrested and was placed under suspension. Central Bureau of Investigation ('CBI') seized the documents in 2003 and a departmental charge-sheet was issued to the petitioner initiating disciplinary proceedings against him in the year 2008 on charges identical to those that were under consideration before the CBI Court. An inquiry under Rule 14 of the **Central Civil Services (Classification, Control and Appeal) Rules, 1965 ('the Rules')** was initiated against the petitioner. The CBI Court, Ghaziabad, on 07.01.2017, convicted the petitioner in the said criminal case and based upon his conviction, a show cause notice was issued by the respondents to the petitioner under Rule 19 of the Rules.

The two Original Applications :

4. The O.A. giving rise to the present petition was filed in the year 2012 much before the petitioner was dismissed, with a prayer to issue a direction to the respondents not to initiate departmental proceedings without showing original records to the petitioner and without following the procedure. Pending the said O.A., the petitioner was dismissed from service on 06.02.2017. He filed an application seeking review of the order dated 06.02.2017, which was rejected on 24.12.2021. The petitioner filed another O.A. No.325 of 2021, pending which his prayer to amend the previous O.A. No. 1258 of 2012 was granted and, consequently, challenge to the dismissal order and the order rejecting review application was added in the previous O.A. No. 1258 of 2012 with a further relief of releasing financial benefits in favour of the petitioner. In view of the amendments made, the O.A. No.325 of 2021 was dismissed as not pressed on 19.09.2024 on the statement made on behalf of the petitioner.

PETITIONER'S CONTENTION BEFORE THE TRIBUNAL :

5. The contention of the petitioner before the Tribunal was that when he was convicted by the CBI Court on 07.01.2017 and while he was in jail, a show cause notice dated 19.01.2017 was issued by the respondents and having come to know about the notice, he sent an application dated 27.01.2017 to the respondents seeking 30 days' time to submit response to the notice, however, the department did not grant him time and passed dismissal order dated 06.02.2017 treating the application dated 27.01.2017 as written explanation against show cause notice.

6. Further case was that the respondents continued to indicate pendency of departmental proceedings and even after the dismissal order was passed, by a communication of February 2017 (Annexure 17 to the amendment application filed in O.A.), it was indicated that the disciplinary proceedings pending against the petitioner would be suspended and the same might be initiated as and when required under Rule 133 of Postal Manual Volume III. The petitioner challenged the action of the respondents taking aid of Rule 14 of the Rules and contents of various communications and prayed for setting aside of dismissal order and grant of consequential benefits.

CONTEST MADE BY THE RESPONDENTS :

7. The O.A. was contested by the respondents taking plea that since the petitioner failed to submit a proper reply to the show cause notice within the time prescribed therein, passing of dismissal order was justified. The plea based upon O.A. No.325 of 2021 and its dismissal was also raised and thrust was upon the aspect that since dismissal order was based upon conviction of the petitioner, no interference was warranted.

8. The Tribunal, after considering the rival submissions, has dismissed the OA by the order impugned before us.

SUBMISSIONS ON BEHALF OF THE PETITIONER :

9. Learned counsel for the petitioner has made following submissions :-

(a). The petitioner was not provided a reasonable opportunity to submit response to show cause notice dated 19.01.2017 and he, at that time, being confined in jail, once he sought only 30 days' time to file response by sending application dated 27.01.2017, the respondents should have accorded time for the said purpose and should not have passed the dismissal order;

(b). Whereas the dismissal order dated 06.02.2017 indicates that the petitioner had submitted a written explanation dated 27.01.2017, the respondents raised a contrary plea before the Tribunal, as indicated in paragraph 25 of its order to the effect that the petitioner, though was granted liberty to file representation, did not avail the same;

(c). Out of six main witnesses in the departmental inquiry, four were dropped by the Inquiry Officer and the documents relied upon by the department were never shown to the petitioner despite repeated representations and, therefore, the departmental inquiry, being in violation of the settled principles of service jurisprudence, the order of dismissal is bad in law;

(d). The dismissal of O.A. No. 325 of 2021 was of no consequence, inasmuch as, the same was filed *qua* the dismissal order and the order rejecting review application and since the Tribunal permitted the petitioner to amend the previously filed O.A. No.1285 of 2012, which was amended accordingly incorporating reliefs *qua* subsequent orders, the O.A. No.325 of 2021 was dismissed as not pressed and, hence, the plea raised by the respondents before the Tribunal that the issues raised *qua* petitioner's dismissal had already been decided in O.A. No.325 of 2021, is of no substance; and

(e). Since the department, even after passing the order of dismissal, continued to indicate in the communications that the departmental proceedings were pending and suspended the said proceedings further intending to initiate the same, as and when required under Rule 133 of Postal Manual Volume III, it is a case where the proceedings did not culminate and, hence, order of dismissal is liable to be set aside on this ground alone;

10. In support of his submissions on the line that provisions of Article 311 of the Constitution of India read with Rule 19 were violated and that the impugned decision of the respondents stands vitiated on account of non-grant of reasonable opportunity to the petitioner, reliance has been placed on the following decisions:-

(i). **Divisional Personnel Officer, Southern Railway & anr. v. T.R. : AIR 1975 SC 2216;**

(ii). Judgment of Rajasthan High Court in **Civil Writ Petition No.6869 of 2007 (Sanjay Dadich v. The State of Rajasthan)**, decided on 17.10.2023;

(iii). Judgment of Gauhati High Court in **Writ Petition (C) No.42 of 1998 (R.C. Lalrinthanga v. State of Mizoram)**, 2000 (2) Administrative Total Judgments 357;

(iv). Judgment of Gujarat High Court in **Letter Patent Appeal No.1260 of 1998 (Kantilal Gandadal Madhak v. Union of India & others)**, 2000 (2) Administrative Total Judgments 299;

(v). Judgment of Jammu and Kashmir High Court in **SWP No.1658 of 1999 (Neeraj Kumar v. Union of India and another)**, 2003 (2) Administrative Total Judgments 505.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS :

11. *Per contra*, learned counsel for the respondents has made following submissions:-

(i) Since dismissal of the petitioner was as a consequence of his conviction by the CBI Court and the Criminal Appeal No.1193 of 2017 filed by him against the order of conviction has already been disposed of by this Court by order dated 16.05.2019 by not interfering in the order of conviction but by only modifying the sentence and reducing its period, the petitioner has no case;

(ii). The petitioner having not responded to the show cause notice, but having attempted to delay the matter by seeking time, the same would not preclude the respondents from exercising their power to pass appropriate order, that was passed dismissing the petitioner from service, which order has rightly not been interfered by the Tribunal.

DISCUSSION AND FINDINGS :

12. We have considered the submissions made and have perused the material available on record.

13. Since much emphasis has been laid on behalf of the petitioner on Rule 19 of the Rules, it would be appropriate to reproduce the same, which reads as under:-

“19. Special procedure in certain cases

Notwithstanding anything contained in Rule 14 to Rule 18-

(i) where any penalty is imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge, or

(ii) where the Disciplinary Authority is satisfied for reasons 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 President is satisfied that in the interest of the security of the State, it is not expedient to hold any inquiry in the manner provided in these rules.

the Disciplinary Authority may consider the circumstances of the case and make such orders thereon as it deems fit:

Provided that the Government servant may be given an opportunity of making representation on the penalty proposed to be imposed before any order is made in a case under Clause (i):

Provided further that the Commission shall be consulted, where such consultation is necessary, before any orders are made in any case under this rule.

14. A perusal of Rule 19 shows that it operates notwithstanding anything contained in Rules 14 to 18 which deal with the departmental inquiry proceedings. Rule 19 indicates three contingencies, viz. (i), (ii) and (iii) and the present case falls under sub-rule (i) as the dismissal order is based upon the order of conviction passed by the CBI Court on 07.01.2017, which has not been interfered with by this Court while deciding Criminal Appeal No.1193 of 2017, except for reducing the quantum of punishment based upon period of confinement of the petitioner in jail.

15. In view of the above fact situation, we find that the arguments on behalf of the petitioner based upon the departmental inquiry proceedings and the cited decisions, are of no substance and, therefore, whatever communications in relation to the departmental inquiry proceedings are on record or reflect things in one or the other way, are of no consequence in view of the fact that order imposing penalty falls under sub-rule (i) of Rule 19 which has nothing to do with departmental inquiry. As to then, whether the petitioner can get any help out of first proviso to Rule 19, needs examination by the Court.

Show cause notice and its consequences :

16. Issuance of show cause notice dated 19.01.2017 and its service upon the petitioner is not in dispute. The notice indicates the respondents' conclusion that the petitioner was not fit to be retained in service and, accordingly, before proposing to impose penalty of dismissal from service, he was asked to submit a representation.

17. The submission made on behalf of the petitioner is that he could not file representation and by a letter dated 27.01.2017, he only sought 30 days' time for making the same. We find that besides the letter dated 27.01.2017, another letter dated 30.01.2017 of identical nature was sent by him to the respondents. A perusal of letters indicates that the

petitioner took plea of his confinement in Dasna Jail w.e.f 07.01.2017, i.e., the date of his conviction by the CBI Court and also the plea that the file of disciplinary case was not available with him. The record of O.A. further reflects that the petitioner had infact submitted a response to the show cause notice on merits on 14.02.2017, but after he was dismissed from service and, therefore, the same would be of no avail.

18. Although we find from indication made in dismissal order dated 06.02.2017 that the petitioner had given a written explanation dated 27.01.2017 which had been duly considered by the respondents irrespective of the said incorrect observation of 'making due consideration', the situation would not improve for the petitioner. The reason is that the facts are not disputed, i.e., to say that the petitioner's dismissal is based upon the order of conviction which was passed on account of the CBI Court having arrived at a conclusion that he had obtained service based upon fabricated/forged documents. This aspect is of quite significance, inasmuch as, it is not a case where criminal case was not connected with the service matter of the petitioner or that it was of less gravity *qua* his services. Contrarily, the criminal case goes to the root of the very appointment of the petitioner and things, therefore, have to be seen in that context and not in isolation or in ignorance thereof.

19. Though it is true that on the same charges which were under consideration before the CBI Court, the departmental proceedings were also initiated in 2008, which were said to be pending in various communications on record, once the petitioner was dismissed from service on 07.01.2017 based upon the order of conviction, the disciplinary proceedings lost their significance for all purposes. Under such circumstances, the provisions relating to departmental inquiry as provided under Rules of 1965 became inapplicable and the punishment order having fallen under Rule 19(i), the same was independent of the nature and consequences of the departmental inquiry.

20. Apparently, it is not a case where no show cause notice was issued to the petitioner in terms of the proviso to Rule 19 and the mere fact that

the petitioner sought time to submit response to the notice by sending applications dated 27.01.2017 and 30.01.2017 by registered post, the result of conviction by the CBI Court or its consequence on the services of the petitioner would not change. Even if we go to the extent that the petitioner would have responded to the show cause notice taking a plea that proposed dismissal would not be warranted, we cannot ignore the nature of criminal case and the order of conviction on account of the petitioner coming into service based upon forged and fabricated documents.

21. Further, this Court, while deciding Criminal Appeal No.1193 of 2017 filed by the petitioner has already upheld his conviction and only modified the judgment by reducing punishment. The operative portion of order dated 16.05.2019 passed by this Court in Criminal Appeal No. 1193 of 2017 reads as under:-

“19. **Accordingly, the conviction is upheld.** The appeal is finally disposed of with the modification that the sentence of 07 years rigorous imprisonment for the offence under section 467 I.P.C. is reduced by 02 years and the default sentence in lieu of fine under section 120-B IPC is reduced from 03 months rigorous imprisonment to 01 months rigorous imprisonment, under section 420 IPC is reduced from 02 months rigorous imprisonment to 01 months rigorous imprisonment, under section 467 IPC is reduced from 06 months rigorous imprisonment to 2 months rigorous imprisonment, under section 468 IPC is reduced from 02 months rigorous imprisonment to 01 months rigorous imprisonment and under section 471 IPC is reduced from 01 months rigorous imprisonment to 15 days rigorous imprisonment. “

Plea based upon natural justice and ‘useless formality test’ :

22. It is well settled that whenever an administrative or disciplinary decision is assailed on the ground that the delinquent employee was denied a reasonable opportunity of hearing or that the principles of natural justice were not duly observed, the Court while exercising jurisdiction under Article 226 of the Constitution of India, is required to examine not merely the alleged procedural infraction but also its real and demonstrable impact upon the ultimate outcome. The principles of natural justice, though fundamental to fair administrative action and

designed to prevent arbitrariness, cannot be treated as a rigid or immutable code of procedural formalities, divorced from the facts and circumstances of each case. Their application is intended not to perpetuate an empty formality.

23. Therefore, where the material available on the record of a given case is sufficient to demonstrate that even upon affording the alleged opportunity or upon strict observance of the procedural requirement, the conclusion reached by the competent authority would inevitably have remained the same, the Court would be justified in declining to interfere with the impugned administrative decision solely on the ground of such procedural irregularity. The writ jurisdiction is not intended to be exercised for the purpose of setting aside an otherwise sustainable decision merely to compel the authority to undertake the same exercise afresh, when the result thereof is demonstrably incapable of being different.

24. The proposition that if, on the admitted or indisputable factual position, only one conclusion is possible and permissible, the court need not issue a writ merely because there is violation of principles of natural justice and as to whether relief can be refused where the court thinks that the case of the applicant is not one of 'real substance' or that there is no substantial possibility of his success or that the result will not be different, even if natural justice is to be followed, has been considered in the judgments of **Malloch v. Aberdeen Corporation : (1971) 2 W.L.R. 1578**, **Glynn v. Keele University : (1971) 1 W.L.R. 487** and **Cinnamond v. British Airports Authority : (1980) 1 W.L.R. 582**.

25. In **State of U.P. Vs. Sudhir Kumar Singh : 2020 SCC Online 847**, the Hon'ble Supreme Court has observed that "natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice and breach of the *audi alteram partem* rule cannot, by itself, lead to the conclusion that prejudice is thereby caused and where procedural and/or substantive provisions of law embody the principles of

natural justice, their infraction *per se* does not lead to invalidity of the orders passed.

26. The applicability of the 'useless formality test' or the 'test of prejudice', in the context of the nature, scope and applicability of the principles of natural justice has been explained by the Hon'ble Supreme Court in **Dharampal Satyapal Ltd. Vs. Deputy Commissioner of Central Excise, Gauhati and others : (2015) 8 SCC 519** and it has been held that there may be situations where it is felt that a fair hearing 'would make no difference' - meaning that a hearing would not change the ultimate conclusion reached by the decision-maker; then it may not be necessary to strike down the action and refer the matter back to the authorities to take a fresh decision after complying with the procedural requirements.

CONCLUSION :

27. In light of the above discussion, we find that the Tribunal has made a thoughtful consideration of the provisions of Rule 19 read with Article 311 of the Constitution of India and after referring to various decisions, it has rightly not interfered with the order of dismissal. Though we find that at certain places, contradictory stand of the respondents has been noted by the Tribunal but the ultimate result of the proceedings based upon the facts and circumstances of the case in their entirety, being in accordance with law, we are not inclined to interfere in the order passed by the Tribunal.

28. The writ petition has no substance, the same is, therefore, **dismissed**.

(Kshitij Shailendra, J) (Arun Bhansali, CJ)

September 10, 2026
Jyotsana