

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12912 OF 2025

Sabina K. Shaikh,]
R/o. Lokmanya Pada, Vishnu Nagar,]
Palghar, Dist. Palghar] .. Petitioner

Versus

1. Union of India,]
Through Western Railway, Mumbai]
2. Divisional Railway Manager,]
Western Railway, Mumbai]
3. Senior Divisional Commercial Manager,]
Western Railway, Mumbai] .. Respondents

Mr. Vicky Nagrani, Advocate for the Petitioner.
None for the Respondents.

**CORAM : SHREE CHANDRASHEKHAR, CJ. &
GAUTAM A. ANKHAD, J.**

DATE : 6TH OCTOBER 2025.

P.C. :

Aggrieved by the decision of the Tribunal in not granting interim relief to him, the petitioner came to this Court in Writ Petition No.2635 of 2021. The challenge laid by the petitioner to the order dated 22nd June 2021 vide Miscellaneous Application No.296 of 2021 in Original Application No.202 of 2021 succeeded to the extent that the Tribunal was directed to decide the Original Application on merits.

2. In the Original Application No.202 of 2021, the petitioner made the following prayers :-

- "a. This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the Respondents and after examining the same quash and set aside the impugned Memorandum of Charge-sheet dated 15.03.2018 with all consequential benefits.
- b. This Hon'ble Tribunal may further be pleased to hold that once it is decided by the competent authority to close the case in the year 2006 in respect of the same charge the Respondents cannot be permitted to proceed with the inquiry at this belated stage in view of the law laid down by the Hon'ble apex Court.
- c. Alternatively, this Hon'ble Tribunal may graciously be pleased

to quash and set aside order dated 17.12.2020 with all consequential benefits and direct the Respondent No.3 to provide the inquiry report agreeing / disagreeing with the findings of the inquiry report as he deems fit by recording the reasons to that effect.

d. Costs of the application be provided for.

e. Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed."

3. As it appears from the materials on record, the domestic enquiry against the petitioner continued by virtue of the dissent note given by the Disciplinary Authority to the enquiry report and, subsequent thereto, the enquiry proceeding has continued against the petitioner. In the continued enquiry, a NIP for removal from service was issued on 23rd June 2021. Having regard to the subsequent proceedings against the petitioner, the Tribunal directed the disciplinary enquiry to proceed against the petitioner after providing her a copy of the enquiry report. In "*Punjab National Bank and Ors. v. Kunj Behari Misra*" (1998) 7 SCC 84, the Hon'ble Supreme Court observed as under :-

"19. The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7(2). As a result thereof, whenever the disciplinary authority disagrees with the enquiry authority on any article of charge, then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and given to the delinquent officer an opportunity to represent before it records its findings. The report of the enquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favourable conclusion of the enquiry officer. The principles of natural justice, as we have already observed, require the authority which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer."

4. That being the law governing the field, the recommendation made by the Enquiry Officer is not binding on the Disciplinary Authority and for good and valid reasons the Disciplinary

Authority can record its dissent to the enquiry report and proceed in the matter in accordance with law. The said procedure seems to have been adopted by the Tribunal with a direction to the Disciplinary Authority to provide a copy of the enquiry report with a liberty to the petitioner to submit her representation within fifteen days.

5. In such view of the matter, a challenge to the charge-sheet dated 15th March 2018 cannot be entertained and Writ Petition No.12912 of 2025 is dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]