IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-10-2025

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THE HONOURABLE MR.JUSTICE K. SURENDER

WP No. 23229 of 2013

L.Paulraj Petitioner(s)

Vs

1. The Principal Secretary To
Government, Revenue (services II)
Department, Fort St. George,
Chennai-9.

2.The Special Commissioner And
Commissioner Of Revenue
Administration, Chepauk, Chennai-5.

3.The District Revenue Officer
Cum Enquiry Officer,
Villupuram District, Villupuram.

Respondent(s)

PRAYER

This Writ Petition is filed under Article 226 of Constitution of India seeking Writ of Certiorari to call for the records of the 1st respondent in connection with the impugned order passed in GO (D) No.645, Revenue (Ser.2(2) Department dated 21.09.2005 and GO(2D) NO.261, Revenue (Ser2(3) Department dated 27.05.2013 and quash the same.

For Petitioner(s): Mr.Venkataramani Senior Counsel
for M/s.M.Muthappan

For Respondent(s): Ms.R.L.Karthika GA for R 1 To 3

ORDER

This Writ Petition is filed seeking to quash the impugned order passed in G.O (D).No.645, Revenue (Ser.2(2) Department dated 21.09.2005 and GO(2D) No.261, Revenue (Ser2(3) Department dated 27.05.2013.

2. The brief facts of the case are that the petitioner, L.Paulraj, a retired District Revenue Officer, challenges the Government Order passed in GO (D) No.645, Revenue (Ser.2(2) Department dated 21.09.2005 and GO(2D) NO.261, Revenue (Ser2(3) Department dated 27.05.2013, imposing a punishment of stoppage of increment for one year with cumulative effect. The petitioner was charged with 8 charges, while working as Manager, THADCO, Villupuram. The enquiry officer held charges 1, 3, 6, and 8 as proved, charges 2 and 7 as partly proved, and charges 4 and 5 as not proved. Thereafter, the disciplinary authority disagreed with the enquiry officer’s finding on charge 7, held it as fully proved and imposed the punishment.

3. The learned counsel appearing for the petitioner submits that the action of the disciplinary authority is flawed as no separate show-cause notice was given before differing with the enquiry officer’s findings and before imposing the punishment. The learned counsel relied on the judgment of the Hon’ble Supreme Court in ***Lav Nigam Vs. Chairman & MD, ITI LTD. And***

Another, reported in (2006) 9 SCC 440, which mandates two notices: one on the tentative disagreement with the enquiry officer's findings and another on the proposed punishment. The relevant para of the above said judgment is extracted hereunder:

> *"9. Challenging the orders of the respondent authorities the appellant filed a Writ Petition before the High Court. The appellant specifically raised the issue that the disciplinary authority was obliged to give a separate show-cause notice if the disciplinary authority differed with the inquiry officer. The High Court also held that there was no need to give two separate show-cause notices one before the disciplinary authority found against the employee while differing with the view of the inquiry officer and another against the proposed punishment. It was further held that the two notices could be combined in one. The Writ Petition was accordingly dismissed.*
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> *10. The conclusion of the High Court was contrary tot he consistent view taken by this Court that in case the disciplinary authority differs with the view taken by the inquiry officer, he is bound to give a notice setting out his tentative conclusions to the appellant. It is only after hearing the appellant that the disciplinary authority would at all arrive at a final finding of guilt. Thereafter, the employee would again have to be served with a notice relating to the punishment proposed.*
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> *11. In Punjab National Bank Vs. Kunj Behari*

Misra's Bench of this Court considered Regulations 7(2) of the Punjab National Bank Officer Employees' (Discipline and Appeal) Regulations, 1977. The Regulations itself did not provide for the giving of any notice before the disciplinary authority differed with the view of enquiry officer. This Court held: (SCC p.97, para 19)

"The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulations 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 give to the delinquent officer an opportunity to represent before its 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 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."

12. This view has been reiterated in Yoginath D.Bagde V. State of Maharashtra. In this case also Rule 9(2) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 dis not specifically provide for a disciplinary authority to give an opportunity of hearing to the delinquent *officer before differing with the view of the enquiry officer. The Court said: (SCCp. 758, para 29)*

> *“But the requirement of ‘hearing’ in consonance with the principles of natural justice even at that stage has to be read into Rule 9(2) and it has to be held that before the disciplinary authority finally disagree with the findings of the enquiring authority, it would given an opportunity to indicate that the findings recorded by the enquiring authority do not suffer from any error and that there was no occasion to take a different view. The disciplinary authority, at the same time, has to communicate to the delinquent officer the ‘TENTATIVE” reasons for disagreeing with the findings of the enquiring authority so that the delinquent officer may further indicate that the reasons of the basis of which the disciplinary authority proposes to disagree with the findings recorded by the enquiring authority are not germane and the findings of ‘not guilty’ already recorded by the enquiring authority was not liable to be interfered with.”*

4. On a perusal of the above judgment, it is clear that the disciplinary authority is required to issue two notices: one indicating its tentative disagreement with the enquiry officer’s findings and another on the proposed punishment. However, in the case on hand, no such procedure is followed by the disciplinary authority, which is against the principles of natural justice.

5. In view of the principles laid down by the the Hon'ble Supreme Court and taking into consideration of the fact that there is a procedural violation in the instant case, this Court remands the matter to the Disciplinary Authority to serve notice to show cause the petitioner regarding tentative disagreement with the enquiry officer's findings as well as the proposed punishment. Upon receipt of the show cause notices, the petitioner shall submit his response, within a period of two weeks from the date of receipt of notices. After receipt of explanation from the petitioner, the disciplinary authority shall pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date receipt of explanation from the petitioner.

6. With the above direction, this Writ Petition is disposed of. No costs.

K.SURENDER, J.
14-10-2025

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Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

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