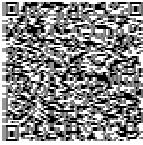


2025:PHHC:002219-DB



CWP-7599-2024 (O&M)
Date of Decision: 10.01.2025

Union of India and others

...Petitioners

Vs.

Mukesh Kumar and others

...Respondents

**CORAM: HON’BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON’BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present Mr. Vipul Aggarwal, Advocate for the petitioners.

Respondent No.1-Mr. Mukesh Kumar, in person.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. While issuing notice by this Court, the argument of counsel for the petitioners was that even if there has been non-compliance of the statutory rules, the department ought to be given a chance to conduct fresh proceedings.
2. However, we notice that the case is otherwise. In the present case, an inquiry was conducted and the Enquiry Officer submitted his inquiry report which was not accepted by the disciplinary authority and without assigning any reason, it directed a fresh inquiry to be conducted, which is in violation of Rule 10(3) of the Railway Servants (Discipline and Appeal) Rules, 1968, which provided as under:-

“10(3): The disciplinary authority shall, if it disagrees with the

findings of the inquiring authority on any articles of charge, record its reasons for such disagreement and record its own findings on such charge, if the evidence on record, is sufficient for the purpose.”

3. The second inquiry which was conducted, was thus contrary to the provisions of the rules contained in the Railway Servants (Discipline and Appeal) Rules, 1968. The action of the department placed on the second inquiry report, therefore, stands vitiated in law and the impugned order passed by the Central Administrative Tribunal holding that the petitioners were unable to prove the charges against the respondent No.1, does not warrant any interference from this Court.

4. In **Punjab National Bank and others vs. Kunj Behari Mishra (1998) 7 Supreme Court Cases 84**, the Hon'ble Supreme Court held as under:-

“Under Regulation 6, the enquiry proceedings can be conducted either by an inquiry officer or by the disciplinary authority itself. When the inquiry is conducted by the inquiry officer his report is not final or conclusive and the disciplinary proceedings do not stand concluded. The disciplinary proceedings stand concluded with decision of the disciplinary authority. It is the disciplinary authority which can impose the penalty and not the inquiry officer. Where the disciplinary authority itself holds an inquiry an opportunity of hearing has to be granted by him. When the disciplinary authority differs with the view of the inquiry officer

and proposes to come to a different conclusion, there is no reason as to why an opportunity of hearing should not be granted. It will be most unfair and iniquitous that where the charged officers succeed before the inquiry officer they are deprived of representing to the disciplinary authority before that authority differs with the inquiry officer's report and, while recording of guilt, imposes punishment on the officer. In our opinion, in any such situation the charged officer must have an opportunity to represent before the Disciplinary Authority before final findings on the charges are recorded and punishment imposed. This is required to be done as a part of the first stage of inquiry as explained in Karunakar's case (supra)."

5. In view of the above, we do not find any perversity or illegality in the order passed by the CAT and the same does not warrant any interference. The writ petition is found to be without merits and the same is accordingly dismissed.

6. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

10.01.2025
rajesh

1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No