

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 579 of 2026

1. The Union of India through the General Manager, East Central Railway, Hajipur, P.O. Digghi Kala, P.S. Hajipur (Town), District-Vaishali at Hajipur, Bihar.
2. The D.R.M., East Central Railway, Dhanbad, P.O. and P.S. Dhanbad, District-Dhanbad 826001.
3. The Divisional Mechanical Engineer (C&W), East Central Railway, Dhanbad, P.O. and P.S.-Dhanbad, District-Dhanbad 826001.
4. The Senior Divisional Mechanical Engineer (Goods and Passengers), East Central Railway, Dhanbad, P.O. and P.S.-Dhanbad, District-Dhanbad 826001.
5. The Additional Divisional Railway Manager, East Central Railway, Dhanbad, P.O. and P.S. Dhanbad, District-Dhanbad 826001.
6. The Executive Director (Establishment), Railway Board, P.O. & P.S.-New Delhi, New Delhi-1.

... .. Petitioners

Versus

Awadhesh Kumar Sharma, aged about 56 years, son of Gouri Shankar Sharma, resident of Barwadih, House No.318/A-II, Barwadih, P.O. Barwadih, P.S.-Latehar, District-Latehar, Jharkhand.

... .. Respondent

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Petitioner : Mr. Ravi Prakash, C.G.C.

06/Dated: 04th February, 2026

1. The instant writ petition under Article 226 of the Constitution of India is directed against the order dated 04.04.2025 passed in O.A. No.051/00142/2021 by the learned Central Administrative Tribunal, Circuit Bench, Ranchi whereby and whereunder, the learned Tribunal has allowed the said original application by passing the following directions:
 - (i) As a consequence of quashing of removal from service order and compulsory retirement order, the applicant should be treated as reinstated from the date of removal till age of supposed superannuation.

- (ii) But the Tribunal is fully aware the fact that applicant was not rendered his service claiming such period, hence, this Tribunal will refrain to pass any order with regards to back wages.
 - (iii) However, since the applicant's removal/compulsory retirement has been held to violation of Procedure & Rules, hence he cannot be held guilty/responsible to non-rendering his service during this period. Therefore, we find that he is entitled to other retirement benefits by fixation of his notional increment of every year as he might have gained if he remained in service till his superannuation. Thus, his pension may be refixed accordingly.
 - (iv) This order is to be complied within 90 days from receipt of the copy by respondents.
 - (v) No order as to costs.
2. The brief facts of the case as per the pleading made in the writ petition having been enumerated as per the pleading which is available in the original application needs to be referred here which is as under:

It is the case of the applicant (respondent herein) before the learned tribunal that on 01.12.2016 he was posted as Grade-I Machinist in the C & W Workshop, Wheel Lathe Shed at Barwadih, Eastern Central Railway. On that day, he was working the shift from 00:00 to 18:00 hours.

The respondent's (petitioner herein) case stems from a written report filed by Station Manager Murmu Thomas on 01.12.2016, which claimed that at around 3:30 PM, an unidentified passenger in train No. 13026 assaulted a railway staff member, Santosh Kumar, with a hammer at Barwadih Platform No. 2. Santosh Kumar later succumbed to his injuries. In the said report it has been mentioned that the local staff, under the leadership of the applicant, A.K. Sharma, (respondent herein) became agitated and forcibly ousted Station Master Anil Kumar Diwedi and Assistant Station Master Vishwakant Choudhary from their office. The agitated group of over 100 staff members closed the office and continued their protest from 5:00 AM to 1:05 PM, disrupting all railway

operations. The Station Manager requested action from the Railway Security Force (RSF) against those involved.

The deceased, Santosh Kumar, was a colleague of the applicant/respondent at Barwadih Station. When the applicant arrived at the station after being advised by the SSE (C & W) In-charge, he found the body of Santosh Kumar on the platform, surrounded by a large crowd. The applicant covered the body with a bedsheet after witnessing that it had not been covered by any cloth. The crowd continued to demand that the accused be handed over to them for revenge.

The Railway Protection Force (RPF) took the assailant into custody, but the crowd persisted with their demand. Despite the applicant's efforts to pacify the crowd, the situation remained tense. Around 8:30 AM, the Divisional Traffic Manager (DTM) and Assistant Commandant of RPF arrived, but the crowd continued to refuse to cooperate. After further discussions, including talks with Shri S.S. Yadav, the mob was finally persuaded to resume work after 12:30 PM.

The applicant/respondent submits that he did not participate in the agitation and instead attempted to de-escalate the situation to restore normalcy. Despite this, he was unfairly made a scapegoat and signed a demand letter, which resulted in penalties against him.

Four days after the incident, on 05.12.2016, the Divisional Mechanical Engineer (C & W) passed an order removing the applicant/respondent from service under the powers conferred by Rule 14 (ii) of the Railway Servants (Discipline and Appeal) Rules, 1968.

The applicant has filed appeal before the Appellate Authority against the said order dt. 05.12.2016 of removal from service. However, the Appellate Authority vide its order dt. 27.03.2017 reduced his penalty from removal from service to compulsory retirement with a pension and 2/3 gratuity.

Subsequently, on 12.05.2017, the Revisional Authority i.e. the Additional Divisional Railway Manager modified the order dt. 27.03.2017 of the Appellate Authority for making the compulsory

retirement effective from the date of removal, with all retirement benefits.

Despite the applicant's efforts to resolve the situation, his appeal for reinstatement was rejected by the Railway Board on 11.08.2020. Statements from several railway staff, including Station Master Anil Dwivedi and Assistant Station Master Vishwakant Choudhary, failed to specifically implicate the applicant, and none of them mentioned his direct involvement in the assault.

A police investigation (Daltonganj GR P.S. Case No. 53/2016) was conducted, and the applicant was found guilty of the offence under Sections 146 and 174 of the Railway Act. He was fined Rs. 1000 for each offence, with an alternative of one month's simple imprisonment in case of default. However, earlier in the same year, the applicant had been awarded for his exemplary performance on 19.04.2016.

Media reports and statements from railway staff indicate that over 100 railway employees participated in the agitation, but only the applicant was held responsible and punished, even though he had worked to restore normalcy. The applicant argued that he was wrongfully held accountable for actions that he did not commit and was punished based on an unlawful application of disciplinary rules.

Thereafter, the original application being O.A. No.051/00142/2021 was preferred before the learned Central Administrative Tribunal, Circuit Bench, Ranchi and the learned Tribunal has allowed the said original application by setting aside the orders dated 05.12.2016 passed by the disciplinary authority; order dated 27.03.2017 passed by the appellate authority and; order dated 12.05.2017 passed by the revisional authority

3. It is evident from the factual aspect as narrated hereinabove that the charge has been found to be there against the applicant, the respondent herein, bringing it under the fold of misconduct in discharge of his official duty. The allegation is that he has tried to disrupt the smooth

functioning and running of the official duty and even tried to interrupt the traffic of the railway in the area.

4. The authority being conscious that a regular departmental proceeding is to be followed as per the available discipline and appeal rules as provided under the Railway Servants (Discipline and Appeal) Rules, 1968 (hereinafter referred to as the Rules, 1968) wherein specific provision has been made under Chapter IV which contains Rule 9 providing the process of imposing the penalties, major in nature.
5. The Rules 1968 also contains a provision under Rule 14 which provides for making departure for convening regular enquiry in a case of misconduct to inflict the punishment directly without framing the charge or following the procedure as available under Rule 9 of the Rules, 1968.
6. The authority has proceeded purportedly in exercise of power conferred under Rule 14 and has removed the applicant, the respondent herein, from service vide order dated 05.12.2016.
7. The respondent, thereafter, against the order dated 05.12.2016 passed by the disciplinary authority, had preferred appeal before the Appellate Authority. However, the Appellate Authority vide its order dated 22.03.2017 reduced his penalty from removal from service to compulsory retirement with a pension and 2/3 gratuity. Subsequently, on 12.05.2017, the Revisional Authority i.e. the Additional Divisional Railway Manager modified the order dt. 27.03.2017 of the Appellate Authority for making the compulsory retirement effective from the date of removal, with all retirement benefits.
8. The respondent, thereafter, had approached the learned Central Administrative Tribunal by filing original application invoking its jurisdiction as contained under Section 14 of the Administrative Tribunal Act.
9. The ground has been taken before the Tribunal that without providing adequate and sufficient opportunity, the punishment for removal has been inflicted by making departure from the provision already provided

under Rule 9 of the Rules, 1968 and even without showing any reason for departure.

10. The second ground has been taken that for the same set of allegations; a criminal case was also instituted which ultimately culminated into acquittal. The ground, therefore, was taken that the fact of both the cases, i.e., criminal case and the departmental proceeding are same, as such, the acquittal in the criminal case will also affect the fate of the decision taken by the disciplinary authority in removing the respondent from service by passing the impugned order.
11. The learned Tribunal, on contest, has allowed the application and has quashed and set-aside orders dated 05.12.2016, 27.03.2017 and 12.05.2017 passed by the disciplinary authority, appellate authority and revisional authority respectively and further direction was passed that applicant (respondent herein) should be treated as reinstated from the date of removal till aged of supposed superannuation.
12. The aforesaid order of learned Tribunal is under challenge by filing the present writ petition.

Submission of the learned counsel for the petitioner

13. The learned Central Government counsel has submitted that the learned Tribunal has not considered the vital aspect of the matter that the order so passed of removing the respondent from service is well within the exercise of the disciplinary authority as per the power conferred under Rule 14 of the Rules, 1968.
14. It has been contended that the Rule 9 of the Rules, 1968 is for initiation of proceeding for inflicting major penalties but depending upon the situation there can be departure as per the provision provided under Rule 14 of the Rules, 1968 and invoking the jurisdiction conferred under Rule 14 and showing the satisfaction in the impugned order since the order of removal from service has been passed, as such, the learned Tribunal ought to have taken into consideration the aforesaid aspect of the matter but the same has not been done, hence, the impugned order needs interference.

15. The second limb of argument is that the learned Tribunal has also not appreciated the position of law that merely on account of acquittal in a criminal case, the same will not, in any way, affect the result of the departmental proceeding, but, ignoring the said principle, the learned Tribunal has considered the factum of acquittal in the criminal case by taking a ground also to interfere with the order of removal.
16. Learned Central Government counsel, based upon the same, has submitted that the impugned order needs interference.

Analysis

17. This Court has heard Mr. Ravi Prakash, learned CGC at length and gone through the pleading made in the writ petition also the finding recorded by the learned Tribunal as available in the impugned order.
18. Two-fold grounds have been taken in assailing the impugned order:
- (i) The Rule 9 of the Rules, 1968 is for initiation of proceeding for inflicting major penalties but depending upon the situation there can be departure as per the provision provided under Rule 14 of the Rules, 1968 and invoking the jurisdiction conferred under Rule 14 and showing the satisfaction in the impugned order the order of removal from service of the applicant/respondent has been passed, but the aforesaid implication of rule 14 of Rule 1968 has not been considered by the learned tribunal in proper manner.
 - (ii) The learned tribunal has also not appreciated the settled position of law that merely on account of acquittal in a criminal case, the same will not, in any way, affect the result of the departmental proceeding
19. This Court, before proceeding to deal with the aforesaid ground to consider the legality and propriety of the order passed by the Tribunal, needs to first discuss the power which is to be exercised by this Court under Article 226 of the Constitution of India as held by the Hon'ble Supreme Court in the case of *L. Chandra Kumar vs. Union of India and Ors., (1997) 3 SCC 261.*

20. The power which is to be exercised as per the position of law is to look into the legality and propriety of the order passed by the learned Tribunal only in a case error apparent on the face of the order or in a case of perversity of finding in exercise of power conferred under the power of judicial review as has been held by the Hon'ble Apex Court at paragraph-99 in the aforesaid judgment. The said paragraph is being referred as under:

“99. In view of the reasoning adopted by us, we hold that clause 2(d) of Article 323-A and clause 3(d) of Article 323-B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the “exclusion of jurisdiction” clauses in all other legislations enacted under the aegis of Articles 323-A and 323-B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution is a part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other courts and Tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution. The Tribunals created under Article 323-A and Article 323-B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. The Tribunals will, nevertheless, continue to act like courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned. Section 5(6) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated.”

21. This Court, in order to assess as to whether two grounds placed before this Court, i.e., error apparent on the face of the order or element of perversity, has thought it proper to refer the power of judicial review has also been deliberated by the Hon'ble Apex Court, which is to be considered while exercising the said power only to the extent that if any order is being passed found to be having error on the face of the order or without jurisdiction or suffers from perversity. The error apparent on the face of the order means that if the order appears on its face having with error, then only the power of judicial review is to be exercised.

22. The Hon'ble Apex Court in the case of ***West Bengal Central School Service Commission vs. Abdul Halim, (2019) 18 SCC 39***, has held at

paragraph-30 that the power of judicial review must be exercised by the Court after determining that the impugned is vitiated by an error apparent on the face of the record and not the same has been established by a process of reasoning. Paragraph-30 of the aforesaid judgment is being referred as under:

"30. In exercise of its power of judicial review, the Court is to see whether the decision impugned is vitiated by an apparent error of law. The test to determine whether a decision is vitiated by error apparent on the face of the record is whether the error is self-evident on the face of the record or whether the error requires examination or argument to establish it. If an error has to be established by a process of reasoning, on points where there may reasonably be two opinions, it cannot be said to be an error on the face of the record, as held by this Court in Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale [Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale, AIR 1960 SC 137] . ---."

23. In the case of ***T.C. Basappa vs. T. Nagappa and Anr., (1955) 1 SCR 250***, their Lordship have held that the patent error in a decision can be corrected when it is manifested by the error apparent on the face of the proceedings. The relevant portion of the aforesaid judgment is quoted hereunder:

"11. ... An error in the decision or determination itself may also be amenable to a writ of certiorari but it must be a manifest error apparent on the face of the proceedings e.g. when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by certiorari but not a mere wrong decision."

24. Thus, on the basis of the aforesaid settled legal position it is evident that the power of judicial review can be exercised, if error on the face of the order impugned, challenged under the Article 226 of Constitution of India, appears to be there.

25. So far as the first ground is concerned it needs to refer herein that all the appeal rules underlying the principle has been incorporated from the Public Servants (Inquiries) Act, 1850. For ready reference, the provision of the Act, 1850 is being referred as under:

"The Public Servants (Inquiries) Act, 1850 (Act No. 37 of 1850)
For regulating inquiries into the behaviour of Public Servants.

Whereas it is expedient to amend the law for regulating inquires into the behaviour of public servants not removable from their appointments without the sanction of Government, and to make the same uniform throughout India; it is enacted as follows :

1. Repealed : *(Repealed by the Repealing Act, 1870 (14 of 1870) Section 1 and Sch., Part II).*

2. Articles of charge to be drawn out for public inquiry into conduct of certain public ser-vants: - *Whenever the Government shall be of opinion that there are good grounds for making a formal and public inquiry into the truth of any imputation of misbehaviour by any person in the service of the Government, not removable from his appointment without the sanction of the Government it may cause the substance of the imputations to be drawn into distinct articles of charge, and may order a formal and public inquiry to be made into the truth thereof.*

3. Authorities to whom inquiry may be committed. Notice to accused :- *The inquiry may be committed either to the Court, Board or other authority to which the person accused is subordinate, or to any other person or persons, to be specially appointed by the Govern-ment, Commissioners for the purpose; notice of which Commission shall be given to the person ac-cused ten days at least before the beginning of the inquiry.*

4. Conduct of Government prosecution:- *When the Government shall think fit to conduct the prosecution, it shall nominate some person to conduct the same on its behalf.*

5. Charge by accuser to be written and verified. Penalty for false accusation. Institution of inquiry by Government :- *When the charge shall be brought by an accuser, the Government shall require the accusation to be reduced to writing, and verified by the oath or solemn affirmation of the accuser; and every person who shall wilfully and maliciously make any false accusation under this Act, upon such oath or affirmation, shall be liable to the penalties of perjury, but this enactment shall not be construed to prevent the Govern-ment from instituting any inquiry which it shall think fit without such accusation on oath or solemn affirmation as aforesaid.*

6. Security from accuser left by Government to prosecute:- *Where the imputations shall have been made by an accuser, and the Government shall think fit to leave to him the conduct of the prosecution, the Government before appointing the Commission shall require him to furnish reasonable security that he will attend and prosecute the charge thoroughly and effectually, and also will be forthcoming to answer any counter-charge or action which may be afterwards brought against him for malicious prosecution or perjury or subordinate of perjury, as the case may be.*

7. Power of Government to abandon prosecution and to allow accuser to continue it :- *At any subsequent stage of the proceedings, the Government may, if it think fit abandon the prosecution, and in such case may, if it think fit, on the application of the accuser, allow him to continue the prosecution, if he is desirous of so doing, on his furnishing such security as is hereinbefore mentioned.*

8. Powers of Commissioners. Their protection. Service of their process. Powers of Court, etc., act-ing under Commission:- *The Commissioners shall have the same power of punishing contempts and obstructions to their proceedings as is given to Civil and Criminal Courts by the Code of Criminal Procedure, 1898, and shall have the same powers for the summons of witnesses, and for compelling the production of documents, and for the discharge of their duty under the Commission, and shall be entitled to the same protection as the Zilla and City Judges, except that all process to cause the attendance of witnesses or other compulsory process, shall be served through and executed by the Zilla or City Judge in whose*

jurisdiction the witness or other person resides, on whom the process is to be served, and if he resides within Calcutta, Madras or Bombay, then through the Supreme Court of Judicature thereto. When the Commission has been issued to a Court, or other person or persons having power to issue such process in the exercise of their ordinary authority, they may also use all such power for the purposes of the Commission.

9. Penalty for disobedience to process:- *All persons disobeying any lawful process issued as aforesaid for the purposes of the Commission shall be liable to the same penalties as if the same had issued originally from the Court or other authority through whom it is executed.*

10. Copy of charge and list to be furnished to accused :- *A Copy of the articles of charge, and list of the documents and witnesses by which each charge is to be sustained, shall be delivered to the person accused, at least three days before the beginning of the inquiry, exclusive of the day of delivery and the first day of the inquiry.*

11. Procedure at beginning of inquiry. Non-appearance of accused and admission of charge:- *At the beginning of the inquiry the prosecutor shall exhibit the articles of charge to the Commissioners, which shall be openly read, and the person accused shall thereupon be required to plead 'guilty' or 'not guilty' to each of them, which pleas shall be forthwith recorded with the articles of charge. If the person accused refuses, or without reasonable cause neglects, to appear to answer the charge either personally or by his counsel or agent, he shall be taken to admit the truth of the articles of charge.*

12. Prosecutor's right of address:- *The prosecutor shall then be entitled to address the Commissioners in explanation of the articles of charge, and of the evidence by they are to be proved; his address shall not be recorded.*

13. Evidence for prosecution and examination of witnesses. Re-examination by prosecutor:- *The oral and documentary evidence for the prosecution shall then be exhibited; the witnesses shall be examined by or on behalf of the prosecutor and may be cross-examined by or on behalf of the person accused. The prosecutor shall be entitled to reexamine the witnesses on any points on which they have been cross-examined, but not on any new matter, without leave of the Commissioners, who also may put such questions as they think fit.*

14. Power to admit or call for new evidence for prosecution. Accused's right to adjournment:- *If it shall appear necessary before the close of the case for the prosecution, the Commissioners may, in their discretion allow the prosecutor to exhibit evidence not included in the list given to the person accused, or may themselves call for new evidence; and in such case the person accused shall be entitled to have, if he demand it, an adjournment of the proceedings for three clear days, before the exhibition of such new evidence exclusive of the day of adjournment and of the day to which the proceedings are adjourned.*

15. Defence of accused. To be recorded only when written:- *When the case for the prosecution is closed, the person accused shall be required to make his defence, orally or in writing, as he shall prefer. If made orally, it shall not be recorded; if made in writing; it shall be recorded, after being openly read, and in that case a copy shall be given at the same time to the prosecutor.*

16. Evidence for defence and examination of witnesses:- *The evidence for the defence shall then be exhibited, and the witnesses examined, who shall be liable to cross-examination and re-examination to the*

examination by the Commissioners according to the like rules as the witnesses for the prosecution.

17. Examination of witnesses and evidence by prosecutor:- [Repealed by the Repealing Act, 1876 (12 of 1876), Section 1 and Schedule, Part I].

18. Notes of oral evidence:- The Commissioners or some person appointed by them shall take notes in English of all oral evidence, which shall be read aloud to each witness by whom the same was given, and, if necessary, explained to him in the language in which it was given, and shall be recorded with the proceedings.

19. Inquiry when closed with defence. Prosecutor when entitled to reply and give evidence. Accused not entitled to adjournment :- If the person accused makes only an oral defence, and exhibits no evidence, the inquiry shall end with his defence; if he records a written defence, or exhibits evidence the prosecutor shall be entitled to a general oral reply on the whole case, and may also exhibit evidence to contradict any evidence exhibited for the defence, in which case the person accused shall not be entitled to any adjournment of the proceedings, although such new evidence were not included in the list furnished to him.

20. Power to require amendment of charge and to adjourn. Reasons for refusing adjournment to be recorded:- When the Commissioners shall be of opinion that the articles of charge or any of them are not drawn with sufficient clearness and precision. The Commissioners may, in their discretion, require the same to be amended, and may thereupon, on the application of the person accused, adjourn the inquiry for a reasonable time. The Commissioners may also, if they think fit adjourn the inquiry from time to time, on the application of either the prosecutor or the person accused on the ground of sickness or unavoidable absence of any witness or other reasonable cause. When such application is made and refused, the Commissioners shall record the application, and their reasons for refusing to comply with it.

21. Report of Commissioners' proceedings:- After the close of the inquiry the Commissioners shall forthwith report to Government to their proceedings under the Commission, and shall send with the record thereof their opinion upon each of the articles of charge separately, with such observations as they think fit on the whole case.

22. Power to call for further evidence or explanation-Inquiry into additional articles of charge.Reference of report of Special Commissioners' final orders:- The Government, on consideration of the report of the Commissioners, may order them to take further evidence, or give further explanation of their opinions. It may also order additional articles of charge to be framed, in which case the inquiry into the truth of such additional articles shall be made in the same manner as is herein directed with respect to the original charges. When Special Commissioners have been appointed, the Government may also, if it thinks fit, refer the report of the Commissioners to the Court or other authority to which the person accused is subordinate, for their opinion on the case, and will finally pass such orders thereon as appear just and consistent with its powers in such cases.

23. Definition of Government:- In this Act, " the Government" means the Central Government in the case of persons employed under that Government and the State Government in the case of persons employed under that Government. [G.S.R.199.dt.7.2.1967,Gaz.of Ind.,18-2-1967, Pt.II Sec.(i) P.229]

24. Saving of enactments as to dismissal of certain officers-Commission under Act for their trial:- *Nothing in this Act shall be construed to repeal any Act or Regulation in force for the suspension or dismissal of Principal and other Sadar Amins or of Deputy Magistrates or Deputy Collectors, but a Commission may be issued for the trial of any charge against any of the said officers, under this Act, in any case in which the Government shall think it expedient.*

25. Saving of power of removal without inquiry under Act:- *Nothing in this Act shall be construed to affect the authority of Government, for suspending or re-moving any public servant for any cause without an inquiry under this Act."*

26. The core of the aforesaid provision is that before inflicting any punishment, a regular departmental proceeding is required to be initiated. Herein, the process of inflicting major penalties has been inserted in the rule applicable, i.e., Rules, 1968 as under Rule 9, the same is for the purpose of providing adequate and sufficient opportunity to the delinquent employee, i.e., the charge is to be framed, inquiry officer is to be assessed, the delinquent employee is to allow to participate in the inquiry proceeding, the witnesses are to be produced before the inquiry officer, opportunity to cross-examine the witnesses is to be provided by the inquiry officer and only thereafter, the inquiry officer is supposed to give a finding on charge whether it is proved or not proved.
27. In such situation, where the charge is proved, the same is to be forwarded before the disciplinary officer who on acceptance is required to issue second show cause notice along with the inquiry report enabling the delinquent employee to furnish his comment on the finding recorded by the inquiry officer so as to be considered by the disciplinary authority before passing the order of punishment.
28. There can be a situation where the charge is not proved. Although, there is no provision to that effect in the Rules, 1968 but by virtue of the judicial pronouncements of the Hon'ble Apex Court in the judgment rendered in the case of ***Punjab National Bank & Ors v. Kunj Behari Misra, [(1998) 7 SCC 84]*** it has been held that in a case of charge is not being proved, then, what remedy is available to the disciplinary authority. It has been therein that if the charge is not being proved, then, the disciplinary authority cannot be said to be remediless rather

difference of opinion is to be shown by assigning the reason of difference and the same is to be supplied to the delinquent employee for his comment to put his defence and thereafter, the order of punishment is to be inflicted. For ready reference, the relevant paragraph is being referred 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 give 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.”

29. At this juncture it would be apt to refer the provision of Rule 14 particularly rule 14 (ii) of the Rules, 1968 which is being referred as under:

“4. Special procedure in certain cases.-

Notwithstanding anything contained in Rules 9 to 13-

- (i) where any penalty is imposed on a Railway 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 an 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 Railway servant may be given an opportunity of making representation on the penalty proposed to be imposed before any order is made in a case falling under clause (i) above. Provided further that the commission shall be consulted where such consultation is necessary, before any orders are made in any case under this rule..”

30. The purpose of conferment of such power is not for the purpose of its misutilization or conferring such power is not for the conferment of arbitrary power upon the disciplinary authority and that is the reason

while mandating such provision in our Constitution as under Article 311, precaution has been taken that in a case from departure from Rule 9 of the Rules, 1968 and before taking recourse under Rule 14 of the Rules, 1968, the disciplinary authority is to come out with the satisfaction as to why there is departure from regular inquiry before inflicting punishment to Rule 14 to be inflicted punishment without holding any inquiry.

31. The recording of satisfaction means that satisfaction must be based upon the reasons and in absence of reason, the same cannot be said to be satisfaction otherwise, such satisfaction will be groundless on the part of the disciplinary authority which will be contrary to the constitutional mandate as conferred under Article 311(1) of the Constitution of India wherein it has been provided that before inflicting any punishment to a public servant working in the civil post, whether in Union or State, adequate and sufficient opportunity is to be provided.
32. Therefore, while providing adequate and sufficient opportunity, the Public Servants (Inquiries) Act, 1850 is having bearing and based upon that, the appeal rule herein has also been inserted by virtue of enactment of Rules, 1968 by providing a provision under Rule 9 thereof.
33. The law is also settled that the consideration and reason is the soul of the order and in absence thereof, order cannot be said to be justified one and such order will be in violation to the principles of natural justice and will not be substantiable in the eyes of law, reference in this regard may be taken from the judgment rendered by the Hon'ble Apex Court in the case of ***Raj Kishore Jha v. State of Bihar, (2003) 11 SCC 519***, wherein, it has been held at paragraph-19 as under:

"... ..Reason is the heartbeat of every conclusion. Without the same, it becomes lifeless."

34. Likewise, the Hon'ble Apex Court in the case of ***Kranti Associates (P) Ltd. v. Masood Ahmed Khan, (2010) 9 SCC 496***, wherein, at paragraph-47, it has been held as under:

*"47. Summarising the above discussion, this Court holds:
(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.*

- (b) *A quasi-judicial authority must record reasons in support of its conclusions.*
- (c) *Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.*
- (d) *Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.*
- (e) *Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.*
- (f) *Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.*
- (g) *Reasons facilitate the process of judicial review by superior courts.*
- (h) *The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice..... ..*

35. Further, it requires to refer herein that even if there is no statutory provision requiring an opportunity to be given, in order to follow the cardinal principle of natural justice, an opportunity of hearing is to be given to the party concerned who is going to be adversely affected, reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in the case of ***Mrs. Maneka Gandhi Vrs. Union of India and Anr., reported in (1978) 1 SCC 248***, wherein, the proposition has been laid down that even if there is no statutory provision requiring an opportunity to be given, in order to follow the cardinal principle of natural justice, an opportunity of hearing is to be given to the party concerned who is going to be adversely affected.
36. Now, This Court is proceeding to consider the argument advanced on behalf of the petitioner.
37. We have gone through the order dated 05.12.2016 wherein it has been stated that *"I am therefore satisfied that Sri Awadhesh Kumar Sharma disrupted the work so as to paralyze for running of train services and thus affected public and national interest. Retention of Sri Awadhesh in Railway Services any further is considered undesirable and I am also satisfied that under the given circumstances it is not reasonably practicable to hold an enquiry in such charged atmosphere as eliciting true opinion and evidence may be difficult for the fear of harassment*

by the charged official. I, therefore in exercise of power conferred upon me under rule 14(ii) of RS (D&A) Rules, 1968, have decided to impose penalty of removal from service of Shri Awadhesh Kumar Sharma, Technician Grade-I (Machinist) working under Sr. SE(C&W)/IC/BRWD with immediate effect.”

38. Thus, from aforesaid it is evident that *save* and except the reference of the word “satisfied” nothing is there in the aforesaid paragraph and on what basis, the said Satisfaction was arrived by the authority concerned has not been mentioned in the aforesaid order. Satisfaction will only be said to be satisfaction in the eyes of law if supported by valid reason.
39. Reason for deviating from Rule 9 to Rule 14 of the Rules, 1968, it has been stated in the said paragraph that *“I am also satisfied that under the given circumstances it is not reasonably practicable to hold an enquiry in such charged atmosphere as eliciting true opinion and evidence may be difficult for the fear of harassment by the charged official.”*
40. It appears from the aforesaid reference of the sentence that the disciplinary authority has avoided to hold the regular enquiry only on the presumption by coming to the conclusion that it is not reasonably practicable to hold the enquiry in such charged atmosphere as eliciting true opinion and evidence may be difficult for the fear of harassment by the charged official. What is the reason to come to the conclusion that it is not reasonably practicable to hold the enquiry in such charged atmosphere, the same cannot be said to be the reasonable cause on the principle that if anybody is interrupting the course of the departmental proceeding, the way is there to bring the fact into motion by instituting a criminal case. The purpose of evading the regular enquiry is not only on the basis of the reason that it is not reasonably practicable to hold an enquiry and therefore, the disciplinary authority will come to the conclusion by depriving the delinquent employee to provide adequate and sufficient opportunity as provided under Rule 9 of the Rules, 1968.
41. Herein, the order of removal has been passed without holding any enquiry even the charge was not framed. If the charge would have been

framed and evidence would have been led, then, it could have been surfaced that what was the reason and what was the basis to hold the delinquent employee was involved in the commission of that alleged misconduct.

42. We are dealing with constitutional mandate of providing adequate and sufficient opportunity before taking away the fundamental right as conferred under Article 19(1)(g) of the Constitution of India and where the issue of fundamental right is involved, the disciplinary authority cannot be so casual that merely because there is difficulty in collecting evidence, the departure is to be made to inflict the punishment of removal or dismissal, the same will give unfettered power upon the disciplinary authority. That does not mean that in the fact of the particular case, such power cannot be exercised but we have not found any material in the present case that in absence of framing of charge or in absence of taking recourse by initiating regular proceeding, the punishment of removal was required to be passed.
43. The learned Tribunal has taken note of the aforesaid aspect of the matter as available in paragraph-25 of the impugned order and as such, this Court is of the view based upon the discussion made hereinabove that the argument which has been advanced on behalf of the petitioner in this respect, is not fit to be accepted and consequently no interference is required with the impugned order so far as this ground is concerned.
44. The second ground has been taken that the acquittal in the criminal case has also been taken as a ground to interfere with the order of removal. There is no dispute in the settled position of law as has been held by the Hon'ble Apex Court in the case of *Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. and Another*, (1999) 3 SCC 679 which stipulates that there would be no bar to proceed simultaneously with departmental enquiry and trial of a criminal case unless the charge in the criminal trial is of grave nature involving complicated questions of fact and law. Such offence generally implies infringement of public, as distinguished from mere private rights punishable under criminal law. When trial for

criminal offence is conducted it should be in accordance with proof of the offence as per the evidence led and defined under the provisions of the Evidence Act. Converse is the case of departmental enquiry. The enquiry in departmental proceedings relates to conduct or breach of duty of the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. The strict standard of proof or applicability of the Evidence Act stands excluded is a settled legal position.

The enquiry in the departmental proceedings relates to the conduct of the delinquent officer and proof in that behalf is not as high as in an offence in criminal charge. It is seen that invariably the departmental enquiry has to be conducted expeditiously so as to effectuate efficiency in public administration and the criminal trial will take its own course. The nature of evidence in criminal trial is entirely different from the departmental proceedings.

In the former, prosecution is to prove its case beyond reasonable doubt on the touchstone of human conduct. The standard of proof in the departmental proceedings is not the same as of the criminal trial. The evidence also is different from the standard point of the Evidence Act. The evidence required in the departmental enquiry is not regulated by the Evidence Act. Under these circumstances, what is required to be seen is whether the departmental enquiry would seriously prejudice the delinquent in his defence at the trial in a criminal case. It is always a question of fact to be considered in each case depending on its own facts and circumstances.

45. In another judgment rendered by the Hon'ble Apex Court in the case of ***State of Rajasthan v. B.K. Meena, (1996) 6 SCC 417***, the same view has been reiterated by the Hon'ble Apex court.
46. In the judgment rendered in ***Capt. M. Paul Anthony v. Bharat Gold Mines Ltd., (supra)***, the Hon'ble Apex court while dealing with the situation of simultaneous continuation of departmental proceeding *vis-a-vis* criminal proceeding, has arrived at following conclusions:

- (i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.
- (ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.
- (iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge-sheet.
- (iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the departmental-proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.
- (v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, the administration may get rid of him at the earliest.

47. In *Stanzen Toyotetsu India (P) Ltd. vs. Girish V. and Ors., (2014) 3 SCC 636*, their Lordships of Hon'ble Apex Court, while dealing with the situation of continuation of simultaneous proceeding both in departmental as well as criminal proceeding, has been pleased to hold by taking note of all the earlier judgments rendered at paragraph-16 which reads as under:

“16. Suffice it to say that while there is no legal bar to the holding of the disciplinary proceedings and the criminal trial simultaneously, stay of disciplinary proceedings may be an advisable course in cases where the criminal charge against the employee is grave and continuance of the disciplinary proceedings is likely to prejudice their defence before the criminal Court. Gravity of the charge is, however, not by itself enough to determine the question unless the charge involves complicated question of law and fact. The Court examining the question must also keep in mind that criminal trials get prolonged indefinitely especially where the number of accused arraigned for trial is large as is the case at hand and so are the number of witnesses cited by the prosecution. The court, therefore, has to draw a balance between the need for a fair trial to the accused on the one hand and the competing demand for an expeditious conclusion of the ongoing disciplinary-proceedings on the other. An early conclusion of the disciplinary proceedings has itself been seen by this Court to be in the interest of the employees.”

48. But applicability of the said judgment is the core of the issue in the present case. Herein, admittedly, no regular enquiry has been initiated. The law which has been settled that if the punishment is based upon initiation of the departmental proceeding and on the same set of allegations, if criminal case has been instituted, then, merely because there is judgment of acquittal, the same will not affect the outcome of the departmental proceeding.
49. But, herein, the order of removal is not based upon the enquiry rather the same is an order passed by the disciplinary authority without initiating any inquiry and if in such circumstances, for the same set of allegations, the respondent has been acquitted in the criminal case, then, certainly, the same will affect the outcome of the departmental proceeding.
50. This Court, therefore, is of the view that what has been taken into consideration by the learned Tribunal at paragraph-27 of the impugned order by taking into account the acquittal in the criminal case as a ground also to interfere with the impugned order of removal, the same can also not come under the fold either error apparent on the face of the order or perversity.
51. This Court, based upon the discussion made hereinabove and considering the fact that the impugned order is having no error apparent on the face of the order or suffers from perversity, is of the view that the impugned order 04.04.2025 passed in O.A. No. 051/00142/2021 by the

learned Central Administrative Tribunal, Circuit, Bench needs no interference.

- 52. Accordingly, the instant writ petition fails and stands dismissed.
- 53. Pending interlocutory application(s), if any, also stands disposed of.

(Sujit Narayan Prasad, J.)

(Arun Kumar Rai, J.)

04th February, 2026
Saurabh/-

AFR
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