

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 583 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-841001 Bihar.
2. The Additional Divisional Railway Manager, East Central Railway, Dhanbad, P.O. and P.S. Dhanbad, District-Dhanbad 826001 (Jharkhand).
3. The Senior Divisional Personnel Officer, East Central Railway, Dhanbad, P.O. and P.S. Dhanbad, District-Dhanbad-826001 (Jharkhand).
4. The Senior Divisional Mechanical Engineer (C&W), East Central Railway, Dhanbad, P.O. and P.S.-Dhanbad, District-Dhanbad 826001 (Jharkhand).

... .. Petitioners

Versus

Nitish Ranjan son of Shri Birendra Prasad Gupta, Ex. Senior Section Engineer (C&W), East Central Railway, Berwadih under Dhanbad Divisional, resident of Civil Lines Club, P.O. Buxar, P.S.-Buxar, District-Buxar-802101, Bihar.

... .. 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 08.04.2025 passed in O.A. No.051/00281/2021 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:

“9. In view of the above observation, we hold that though the tribunal should not function as an appellate authority in the matter of disciplinary proceeding, but in the peculiar facts and circumstances of the instant case as discussed above, interference of this Tribunal is warranted and fully justified. Accordingly, the OA is allowed. The impugned orders dated 11.02.2010 (Annexure A/1), 28.10/04.11.2020 (Annexure A/2) and 10.02.2020 (Annexure A/4) are accordingly quashed and set aside. The respondents are directed to reinstate the applicant in service forthwith from the date of removal from service. He should be granted all the consequential benefits as per the rules within a period of three months from the date of receipt of this order. No order as to cost and interest.”

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:

The applicant, respondent herein, was appointed through Railway Recruitment Board, Ranchi on 11.04.2007 for the post of Technician-III and was posted at Obra Dam under East Central Railway, Dhanbad Division. After his promotion to the post of Technician-II he was transferred to Gajhandi in July, 2011 on his own request.

The applicant, respondent herein was selected in the year 2013 for the post of Junior Engineer (C&W) under 25% Intermediate Apprentice Quota and was sent for mandatory training and after completion of successful training he was posted as Junior Engineer (C&W), at Singrauli in the month of April 2015. He was later promoted to the post of Senior Section Engineer (C&W) on 31.12.2018 and transferred to Barwadih on 15.12.2019 under Routine Overhauling Depot (ROH) where the work of wheels and other parts of Goods Train are being done. That the administrative work of ROH is being manned by Depot In-charge with another ROH In-charge for helping him who both are Senior Section Engineer in the same status post as of applicant but applicant is under the Department of Carriage & Wagon.

It had been stated by the applicant, respondent herein before the learned Tribunal that ROH In-charge is authorized to allot the duty of all Staff up to Supervisor. ROH In-charge is custodian of attendance register of such employees. This ROH In-charge is not only maintaining all works register with the name of employees who have been assigned works by him but also the work of Crane/Fork Lifter performed by Helper/Operator is being done in the presence of ROH In-charge and not by the applicant.

After joining at Barwadih on 19.12.2019, the respondent has sincerely executed the work allotted by the ROH In-charge. It had been submitted that even on 08.02.2020, 09.02.2020 and 10.02.2020, the respondent has submitted the daily Evening Stock which can be seen after calling the same from the office of ROH Depot In-Charge.

It had further been contended by applicant, respondent herein that on 09.02.2020 one Helper was deputed to work on Forklift in 1st half and 2nd half who has manned the Fork Lifter but while in 2nd half when he was manning the Fork Lifter, one Welder Sri Durgesh Rajak has injured. It is submitted that since ROH In-charge was not present there and the said Helper/Operator left the Shed and respondent being only eye witness and looking at the condition of said Welder, brought him to Railway Hospital from his own Bike where he was instructed to shift him to Daltonganj. The respondent immediately brought him to Daltonganj but on the same day i.e. on 09.02.2020, Sri Durgesh Rajak expired.

After the death of Sri Rajak, the Union representative held responsible to the Depot In charge (Barwadih) and ROH In-charge both, but instead of taking responsibility, they blamed the respondent because the Helper/Operator who manned the Fork Lifter was stated to be a local person.

Thereafter, on 10.02.2020, Depot In-charge Sri Jugunu Kumar Das has lodged an FIR in Rail PS, Daltonganj in which the respondent was neither held responsible nor was made an accused. On the contrary, the ROH In-charge has accepted that he was not present and stated the reason of death due to an accident while on duty. In the chargesheet submitted by the Police the respondent was also not made accused.

It had been alleged by the respondent that on one hand the applicant, respondent herein was placed under suspension on 10.02.2020 by Respondent No. 4 (herein petitioner no.4) under Rule 5(1) of the Railway Servant (Discipline & Appeal) Rules, 1968 and on the other hand, the respondent No.4 issued the impugned an order dated 11.02.2020 (Annexure A/1) removing the applicant under Rule 14 (ii) of the Railway Servant (Disciplinary & Appeal) Rules, 1968 without giving any show cause notice or even without holding any regular departmental enquiry under Rule 9 of the Railway Servant (Discipline & Appeal) Rules, 1968.

Moreover, in the said impugned order, the basic reason has been shown that Railway staff are angry and situation was not normal & still situation is sensitive which, according to the respondent, is wrong, baseless, fabricated, and without any substances. In the said order, the respondent No. 4 (petitioner no.4) has referred about constitution of three men committee of senior supervisors and also recommendation of AME (C&W)/BRWD but neither respondent was called by the so called three men committee nor by said AME which is directly against the principle of natural justice.

The applicant, respondent herein against the said order i.e.11.02.2020, preferred an appeal and the said appeal dated 18.03.2020 was rejected on 28.10.2020 which was communicated to him through a letter dated 04.11.2020. When the applicant's letter dated 16.12.2020 requesting for supply of the copy of evidence used for removal under Rule 14 (ii) of the RS(DA) Rules, 1968, it was neither supplied nor any instruction about revision/review has been intimated to him.

Thereafter, the original application being O.A. No.051/00281/2021 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 11.02.2020, 28.10.2020 and 10.02.2020.

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. The allegation is that the respondent while working at ROH deport/BRWD suddenly on 09.02.2020 started driving new Fort Lifter (4-wheeler) without any basic knowledge of driving and without any permission as it was not the duty of the respondent to drive a Forklift. As a result, the Fork Lifter was controlled and dashed Shri Durgesh Kumar Rajak, Tech. II who received severe injury and died during treatment.
4. The disciplinary authority constituted three supervisors as Members of the Inquiry Committee and the said committed submitted a detailed special report dated 11.02.2020 and decided that the respondent is fully responsible for the death of Durgesh Kumar Rajak.

5. 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.
6. 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.
7. 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 11.02.2020.
8. The respondent, thereafter, against the order dated 11.02.2020 passed by the disciplinary authority, had preferred appeal before the Appellate Authority. However, the Appellate Authority vide its order dated 28.10.2020 had dismissed the appeal.
9. 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.
10. 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.
11. The learned Tribunal, on contest, has allowed the application and has quashed and set-aside orders dated 11.02.2020, 28.10.2020 and 10.02.2020 passed by the disciplinary authority, appellate authority and the order of suspension respectively and further direction was passed that applicant (respondent herein) be reinstated in service forthwith from the date of removal from service.

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 ground has been taken that the issue of maintainability of the original application was also raised before the Tribunal, since the applicant had not availed the remedy of revision as provided under the Appeal Rules, 1968.

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 ground has been taken that the issue of maintainability of the original application was raised before the Tribunal, since the applicant had not availed the remedy of revision as provided under the Appeal Rules, 1968.

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 inquiries 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 11.02.2020 wherein it has been stated that *"Whereas Shri Nitish Ranjan/SSE (C&W)/BRWD working under SSE(C&W)/BRWD of East Central Railway, Grievous injury and then death of railway staff Sri D.K. Rajak, Tech. II (Welder) due to*

unmindfulness and undisciplined act while working at ROH depot/BRWD & after that work of ROH depot/BRWD hampered by angry railway staffs, which was not under control, still the situation is sensitive at ROH depot/BRWD due to high degree of anger against him, hence, the enquiry contemplated under Rule 9 of D&A Rules is not reasonably practicable provided for in the Railway Servants (D&A) Rule, 1968.

*Now, therefore, in exercise of the powers conferred by Rule No.14 (ii) of the RS (D&A) Rules, 1968, the undersigned hereby **Remove** the said Sri Nitish Ranjan/SSE(C&W)/BRWD working under SSE(C&W)/BRWD of East Central Railway from service w.e.f. 11.02.2020 (A/N) Sri Nitish Ranjan/SSE(C&W)/BRWD is hereby advised that under Rules 18 ad 19 of the Railway Servants (Discipline & Appeal) Rules, 1968, he may prefer an appeal against these orders to ADRM/ECR/DHN.....”*

38. Thus, from aforesaid it is evident that on what basis, the satisfaction of departure from initiating the regular enquiry 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 “*Whereas Shri Nitish Ranjan/SSE (C&W)/BRWD working under SSE(C&W)/BRWD of East Central Railway, Grievous injury and then death of railway staff Sri D.K. Rajak, Tech. II (Welder) due to unmindfulness and undisciplined act while working at ROH depot/BRWD & after that work of ROH depot/BRWD hampered by angry railway staffs, which was not under control, still the situation is sensitive at ROH depot/BRWD due to high degree of anger against him, hence, the enquiry contemplated under Rule 9 of D&A Rules is not reasonably practicable provided for in the Railway Servants (D&A) Rule, 1968.*”

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 “... *after that work of ROH depot/BRWD hampered by angry railway staffs, which was not under control, still the situation is sensitive at ROH depot/BRWD due to high degree of anger against him, hence, the enquiry contemplated under Rule 9 of D&A Rules is not reasonably practicable provided for in the Railway Servants (D&A) Rule, 1968*”.

41. What is the reason to come to the conclusion that it is not reasonably practicable to hold the enquiry, 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.
42. 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.
43. 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 the situation is sensitive and high degree of anger is there against him, 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.

44. The learned Tribunal has taken note of the aforesaid aspect of the matter as available in paragraph-8 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.
45. So far as the ground taken that issue of maintainability of the original application was raised before the Tribunal, since the applicant had not availed the remedy of revision as provided under the Appeal Rules, 1968.
46. This Court is of the view that the same cannot be a ground to come to the conclusion that the original application was not maintainable, once the Tribunal has taken the view of violation of the principles of natural justice by making departure from initiating the regular enquiry and by inflicting punishment by the purported exercise of power conferred under Rule 14 (ii) of the Rules, 1968.
47. We have also come to the conclusion that the departure from Rule 9 and the imposition of punishment in view of the provision of Rule 14, in the absence of any cogent reason of satisfaction, is contrary to the constitutional mandate.
48. The question of violation of the principles of natural justice is the core of the issue, and in such circumstances, maintaining a writ petition or an original application before the Tribunal, in exercise of power conferred under Article 226 of the Constitution of India, cannot be a ground, as has been held by the Hon'ble Apex Court in the case of *Whirlpool Corporation Vs. Registrar of Trade Marks., Mumbai & Ors., (1998) 8 SCC 1* wherein it has been held that the mere existence of alternative remedy is not to operate as a bar where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice.

49. Herein also, due to non-initiation of the regular enquiry, which ought to have been initiated in view of the provision of Rule 9 of the Rules, 1968, the issue of principles of natural justice is available, since the delinquent employee, the respondent herein, has been deprived of adequate and sufficient opportunity to defend in the departmental enquiry before inflicting the punishment of removal from service.
50. Hence, it is a case of violation of the principles of natural justice, and as such, merely because the revisional forum has not been availed, the powers of the Tribunal in entertaining the original application, according to our considered view, cannot be said to suffer from an error.
51. This Court, therefore, is of the view that what has been taken into consideration by the learned Tribunal at paragraph-8 of the impugned order by taking into account the violation of principle of natural justice, the same can also not come under the fold either error apparent on the face of the order or perversity.
52. 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 08.04.2025 passed in O.A. No. 051/00281/2021 by the learned Central Administrative Tribunal, Circuit, Bench, Ranchi needs no interference.
53. Accordingly, the instant writ petition fails and stands dismissed.
54. 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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