



225

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA-665-2021 (O&M)

Date of Decision: 11th February 2026

UTTAR HARYANA BIJLI VITRAN NIGAM LTD. AND OTHERS

.....Appellant(s)

V/s

RAMESH KUMAR

.....Respondent(s)

CORAM: **HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA**
HON'BLE MR. JUSTICE ROHIT KAPOOR

Present Mr. Puneet Jindal, Senior Advocate assisted by
 Ms. Fiza Arora, Advocate, for the appellant.

Mr. Ivneet Singh Pabla, Advocate
 for the respondent.

ASHWANI KUMAR MISHRA, J. (Oral)

1. This Appeal is filed by the Uttar Haryana Bijli Vitran Nigam Ltd., challenging the judgment dated 16.10.2019 of the learned Single Judge passed in CWP-32600-2018, whereby the action of the appellants in discontinuing the engagement of the respondent on the specific charge, has been interfered with. This appeal also assails order dated 22.04.2021 passed by the learned Single Judge, whereby the Review Application filed by the appellants has also been dismissed.

2. It transpires that the respondent was engaged as Assistant Lineman on D.C. Rates (Contractual basis) w.e.f. 13.08.2008. In 2016, one consumer of the appellants made a complaint alleging an illegal demand by the employees of the appellants. Certain fact finding inquiries were conducted in the matter. It is thereafter that the service of the respondent was dispensed with.

3. The action of the appellants has been interfered with by the learned Single Judge after noticing that the allegation of demand of bribe was against the four persons, and except the respondent, other three were the regular employees. Minor/major punishments were inflicted upon the other three, but they were retained in service. However, the service of the respondent was dispensed with. Finding such an action to be discriminatory and also for the reason that no inquiry was conducted against the respondent, the Writ Court has allowed the Writ Petition filed by the respondent and set aside order dated 08.05.2018, impugned therein, directing the respondent to be taken back in service along with consequential benefits.

4. Learned Senior Counsel appearing for the appellants argues that the role of the respondent was more serious in comparison to other three employees and therefore, the decision to dispense with his engagement is perfectly justified. It is also submitted that even if the learned Single Judge has found that holding of an inquiry was necessary then the appropriate course was to have remitted the matter back to the appellants with liberty to conduct an inquiry and the nature of direction issued by the Writ Court would not be justified in the facts of the case.

5. Learned counsel for the respondent, however, submits that in the first fact finding inquiry, the charges were not found to be proved and since the other three employees have been let-off by imposing minor/major punishments, there is no reason as to why the respondent ought to have been discontinued from the engagement.

6. In the facts of the case, it is apparent that the action of appellant to discontinue the engagement of the respondent, vide order dated 08.05.2018, was on account of allegations of misconduct. It is equally undisputed that the decision to discontinue the engagement of the respondent was a consequence of the alleged misconduct.

7. The short question that arises for consideration is *as to whether in the case of the contractual employment, was it necessary for the employer to have conducted an inquiry or not?* As a sequel to it, *it would have to be examined as to what consequence was to follow even if no such inquiry was held.*

8. Law is well settled that even in the case of temporary Government servant, where the termination is on the ground of misconduct, it would be imperative for the employer to conduct an inquiry. (See **Parshotam Lal Dhingra** v. **Union of India** ; AIR 1958 SC 36)

9. The status of a contractual employee would not be distinct from that of a temporary Government servant inasmuch as the law requires an allegation of misconduct to be proved before it forms the basis of disengagement even for a contractual employee.

10. In the facts of the present case, no such inquiry was conducted and therefore, guilt of the respondent was not established. Once that be so, we find no reason to interfere with the order of the learned Single Judge, whereby order dated 08.05.2018, impugned therein, has been set aside. To that extent, we endorse the view taken by the learned Single Judge. It has, however, to be seen as to what consequences would follow.

11. In a case where action of the employer is interfered with on account of lack of compliance with the procedural safeguards for establishing the guilt, the matter ordinarily will have to go back to the employer such that the allegation of misconduct is inquired into and determined. What exactly should be the manner to be followed in such circumstances, has been dealt with by the Hon'ble Supreme Court in **Managing Director, ECIL, Hyderabad & Ors. v. B. Karunakar & Ors;** (1993) 4 SCC 727 wherein it has been observed as under:-

“30. XX XXX XXXX

Hence it has to be held that when the Inquiry Officer is not the disciplinary authority, the delinquent employee has right to receive a copy of the inquiry Officer's report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employee with regard to the charges levelled against him. That right is a part of the employee's right to defend himself against the charges levelled against him. A denial of the Inquiry Officer's report before the disciplinary authority takes its decision on the charges is a denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of natural justice.

Hence the incidental questions raised above may be answered as follows:

(i) Since the denial of the report of the Inquiry Officer is a denial of reasonable opportunity and a breach of the principles of natural justice, it follows that the statutory rules, if any, which deny the report to the employee are against the principles of natural justice and, therefore, invalid. The delinquent employee will, therefore, be entitled to a copy of the report even if the statutory rules do not permit the furnishing of the report or are silent on the subject.

(ii) The relevant portion of Article 311(2) of the Constitution is as follows:

"(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an enquiry in which

he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges."

Thus the Article makes it obligatory to hold an inquiry before the employee is dismissed or removed or reduced in rank. The Article, however, cannot be construed to mean that it prevents or prohibits the inquiry when punishment other than that of dismissal, removal or reduction in rank is awarded. The procedure to be followed in awarding other punishments is laid down in the service rules governing the employee. What is further, Article 311(2) applies only to members of the civil services of the Union or an all India service or a civil service of a State or to the holders of the civil posts under the Union or a State. In the matter of all punishments both Government servants and others are governed by their service rules. Whenever, therefore, the service rules contemplate an inquiry before a punishment is awarded, and when the Inquiry Officer is not the disciplinary authority the delinquent employee will have the right to receive the Inquiry Officer's report notwithstanding the nature of the punishment.

(iii) Since it is the right of the employee to, have the report to defend himself effectively, and he would not know in advance whether the report is in his favour or against him, it will not be proper to construe his failure to ask for the report, as the waiver of his right. Whether, therefore, the employee asks for the report or not, the report has to be furnished to him.

(iv) In the view that we have taken, viz., that the right to make representation to the disciplinary authority against the findings recorded in the inquiry report is an integral part of the opportunity of defence against the charges and is a breach of principles of natural justice to deny the said right, it is only appropriate that the law laid down in Mohd. Ramzan Khan' case (supra) should apply to employees in all establishments whether Government or non-Government, public or private. This will be the case whether there are rules governing the disciplinary proceedings or not and whether they expressly prohibit the furnishing of the copy of the report or are silent on the subject. Whatever the nature of punishment, further, whenever the rules require an inquiry to be held, for inflicting the punishment in

question, the delinquent employee should have the benefit of the report of the Inquiry Officer before the disciplinary authority records its findings on the charges levelled against him. Hence question (iv) is answered accordingly.

(v). The next question to be answered is what is the effect on the order of punishment when the report of the Inquiry Officer is not furnished to the employee and what relief should be granted to him in such cases. The answer to this question has to be relative to the punishment awarded. When the employee is dismissed or removed from service and the inquiry is set aside because the report is not furnished to him, in some cases the non-furnishing of the report may have prejudiced him gravely while in other cases it may have made no difference to the ultimate punishment awarded to him. Hence to direct reinstatement of the employee with back wages in all cases is to reduce the rules of justice to a mechanical ritual. The theory of reasonable opportunity and the principles of natural justice have been evolved to uphold the rule of law and to assist the individual to vindicate his just rights. They are not incantations to be invoked nor rites to be performed on all and sundry occasions. Whether in fact, prejudice has been caused to the employee or not on account of the denial to him of the report, has to be considered on the facts and circumstances of each case. Where, therefore, even after the furnishing of the report, no different consequence would have followed, it would be a perversion of justice to permit the employee to resume duty and to get all the consequential benefits. It amounts to rewarding the dishonest and the guilty and thus to stretching the concept of justice to illogical and exasperating limits. It amounts to an "unnatural expansion of natural justice" which in itself is antithetical to justice.

31. Hence, in all cases where the Inquiry Officer's report is not furnished to the delinquent employee in the disciplinary proceedings, the Courts and Tribunals should cause the copy of the report to be furnished to the aggrieved employee if he has not already secured it before coming to the Court/Tribunal, and give the employee an opportunity to show how his or her case was prejudiced because of the non-supply of the report. If after hearing the parties, the Court/Tribunal comes to the conclusions that the non-supply of the

report would have made no difference to the ultimate findings and the punishment given, the Court/Tribunal should not interfere with the order of punishment.

*The Court/Tribunal should not mechanically set aside the order of punishment on the ground that the report was not furnished as is regrettably being done at present. The courts should avoid resorting to shortcuts. Since it is the Courts/Tribunals which will apply their judicial mind to the question and give their reasons for setting aside or not setting aside the order of punishment, (and not any internal appellate or revisional authority), there would be either a breach of the principles of natural justice nor a denial of the reasonable opportunity. It is only if the Court/Tribunal finds that the furnishing of the report would have made a difference to the result in the case that it should set aside the order of punishment. Where after *following the above procedure, the Court/Tribunal sets aside the order of punishment, the proper relief that should be granted is to direct reinstatement of the employee with liberty to the authority/management to proceed with the inquiry, by placing the employee under suspension and continuing the inquiry from the stage of furnishing him with the report. The question whether the employee would be entitled to the back-wages and other benefits from the date of his dismissal to the date of his reinstatement if ultimately ordered, should invariably be left to be decided by the authority concerned according to law, after the culmination of the proceedings and depending on the final outcome. If the employee succeeds in the fresh inquiry and is directed to be reinstated, the authority should be at liberty to decide according to law how it will treat the period from the date of dismissal till the reinstatement and to what benefits, if any and the extent of the benefits, he will be entitled. The reinstatement made as a result of the setting aside of the inquiry for failure to furnish the report, should be treated as a reinstatement for the purpose of holding the fresh inquiry from the stage of furnishing the report and no more, when such fresh inquiry is held. That will also be the correct position in law.”*

12. Though the judgment of *Managing Director, ECIL, Hyderabad & Ors. (Supra)* is in the context of the regular employee, yet, the principles

laid down therein can constitute the basis for consequential action to be determined in this case.

13. In such circumstances, we modify the judgement of the learned Single Judge by extending an opportunity to the employer to conduct an appropriate inquiry so as to determine the guilt of the respondent in light of the accusations made against it. For such purposes, the respondent would be reinstated on the same status within a period of two weeks, and the appellants shall be at liberty to conclude the inquiry within a period of four months. Based upon the outcome of such inquiry, an appropriate decision would be taken by the employer to consider the question of reinstatement and also to award benefits which may arise if the allegations are not found to be proved.

14. The Appeal stands **disposed of** in the aforesaid terms.

15. All pending applications in this case, if any, are disposed of accordingly.

[ASHWANI KUMAR MISHRA]
JUDGE

[ROHIT KAPOOR]
JUDGE

February 11, 2026
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<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>