2026:AHC:210469

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 39546 of 2006

Gaya Prasad

.....Petitioner(s)

Versus

State of U.P. and Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ashok Gupta, Jitendra Prasad Mishra
Counsel for Respondent(s)	:	C.S.C.

Court No. - 34

(SN.40)

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Sri Jitendra Prasad Mishra, learned counsel for the petitioner and Sri Dilip Kumar Kesarwani, learned Additional Chief Standing Counsel for the State.

2. The instant writ petition has been filed seeking quashing of the impugned order dated 17.03.2006, passed by the respondent no. 2, whereby the petitioner was punished of reversion on the original pay-scale having found guilty of less collection in the month of June, 2004 while working as Collection Amin.

3. The briefly stated facts of the case are that the petitioner herein was initially appointed as Collection Amin vide appointment letter dated 10.08.1973. His services were later regularized vide order dated 05.01.1988. As such, at the relevant time, the petitioner was working on the post of Collection Amin.

4. In the month of June, 2004, allegedly the collection of the revenue by the petitioner was less than the standards. Thereupon, a disciplinary proceeding was initiated against the petitioner. On 13.07.2004, a charge-sheet was issued against the petitioner wherein the charge was leveled against a total liability demand of Rs. 7,23,239/- against the main liabilities and demand of Rs. 2,10,340/- against the miscellaneous liability was available. However, the petitioner's collection was only Rs. 27,438/-

towards the main demands and Rs. 12,980/- towards the miscellaneous demands, whereas the standard has been fixed that the petitioner was required to collect minimum of Rs. 1,00,000/- per month i.e., Rs. 60,000/- towards main demands and Rs. 40,000/- towards the miscellaneous demands. Therefore, despite the demands available the collection of the petitioner was below the standards and that shows the negligence in the collection on the part of the petitioner. Therefore, it was alleged that the petitioner was guilty of not taking interest in the collection.

5. As per the inquiry report, despite various opportunities granted to the petitioner the petitioner did not submit any reply to the aforesaid charge-sheet and merely because no reply was submitted by the petitioner, the inquiry officer has concluded the inquiry holding that non-filing of the reply to the charge-sheet itself is sufficient to hold that the charges are proved against the petitioner. Thereupon, the inquiry report was submitted on 23.06.2005. Thereupon, the disciplinary authority has issued the show-cause notice to the petitioner on 27.09.2005 along with the copy of the inquiry report. Thereupon, the petitioner has submitted a detailed reply with regard to his collection and it was also alleged that the collection of Rs. 27,438/- has been wrongly mentioned against the main demands whereas his actual collection was Rs. 86,147.35/- and all the demands available in his area were less than Rs. 1,00,000/- and in terms of the Government order dated 28.03.2004, whereby it was provided that no coercive steps be taken against the debtors where the demand is less than Rs. 1,00,000/-. In such view of the matter, though the attempts have been made for collection but in view of the aforesaid Government order no coercive steps were taken and certain other circumstances have been mentioned in his reply to the show-cause notice by the petitioner.

6. The disciplinary authority, vide its order dated 10/17.03.2006, has held that the explanation submitted by the petitioner was false and misleading and the collection of the petitioner was very less against the available demands that shows that he has not taken proper interest in recovery. Thus, he has been negligent while performing his duties and consequently a major penalty of reverting the petitioner to the original pay-scale has been awarded. Being aggrieved, the instant petition has been filed by the petitioner.

8. Learned counsel for the petitioner submits that though the disciplinary proceedings were initiated in terms of U.P. Government Servant (Discipline and Appeal) Rules, 1999, however, the procedure as provided under Rules 7, 8 & 9 of the said Rules, has not been properly followed while conducting the inquiry and concluding the disciplinary proceedings against the petitioner.

9. In support of his submission, learned counsel for the petitioner has relied upon the judgment of Coordinate Bench of this Court in Civil Miscellaneous ***Writ Petition No. 71261 of 2005 (Brijesh Kumar Tripathi Vs. State of U.P. and others)*** judgement dated 21.11.2005 as well as judgement of the Division Bench of this Court in ***Writ-A No. 25240 of 2014 (Kaptan Singh Vs State of U.P. and Another***) dated 14.05.2014, wherein it has been categorically held even in a case where no reply was filed by the delinquent employee to the charge-sheet, it was obligatory upon the inquiry officer to fix date, time and place for concluding the inquiry whether after examining the witnesses or without examining the witness. In the instant case, no procedure has been followed in this case. Therefore, learned counsel for petitioner seeks quashing of the impugned order and all consequential benefits available to the petitioner.

10. *Per contra* learned Additional Chief Standing Counsel for the State has submitted that since the petitioner has failed to submit the reply to the charge-sheet and the allegations were based on the documentary evidence, which were the public documents, non-filing of reply would itself meant that the petitioner had nothing to say against the charges. Therefore, the inquiry officer has rightly concluded, the charges have been proved against the petitioner. Thereafter, after inquiry report was submitted, due opportunity was given to the petitioner by issuing the show-cause notice, which has been replied and the same has been well considered by the disciplinary authority before passing the impugned order. Therefore, there is no procedural illegality in the instant proceedings. Accordingly, learned Additional Chief Standing Counsel for the State seeks dismissal of the instant petition.

11. Having heard the rival submissions so made by learned counsel for the parties, this Court has carefully gone through the record of the case.

From the record of the case, it is apparent that after issuance of the charge-sheet though as per the inquiry report the opportunities were granted to the petitioner to submit the reply, according to the inquiry officer no reply was filed. However, it has been disputed by the petitioner in his explanation to the show-cause notice that he has submitted the reply to the charge-sheet, however, the same was got misplaced by the other employee, who was having grudge against the petitioner. The fact remains that the reply was not before the inquiry officer. The inquiry officer has proceeded straight away on the basis of non-filing of reply by the petitioner and has concluded that the charges are proved against the petitioner.

12. In ***Brijesh Kumar Tripathi*** (supra) the Coordinate Bench of this Court has relied upon Rule 7 of 1999 Rules has observed that since the inquiry officer has failed to fix any date, time and place for conducting recording the oral evidence or examining the documents available before him before concluding the inquiry is vitiated and consequently the punishment order passed on the basis of such inquiry was quashed.

13. In ***Kaptan Singh*** (supra), the Division Bench of this Court, while considering the Rule 7 of Rules 1999, has observed as under:

> *"Even if the delinquent does not demand personal hearing or does not give the names of witnesses with brief synopsis of points on which he wishes to examine or cross-examine the witnesses, the* ***Inquiry Officer is not absolved from fixing a date of enquiry, with intimation to the delinquent and if he does not appear on the date fixed to either adjourn the enquiry to some other date or to proceed exparte, as he deems fit. In either eventuality, he is required to hold inquiry, if delinquent is present, in his presence, if he is absent, exparte. If oral evidence is referred in the charge-sheet, same is required to be recorded/examined, if not, even then the documentary evidence is required to be examined in the light of the charges for ascertaining the truth in respect thereof. The delinquent is also entitled to be intimated the date for oral enquiry, wherein the Inquiry Officer should confront the***

delinquent with the charges and the evidence in support thereof, put relevant queries to him, elicit and record his replies/response in respect thereof. Such oral enquiry is necessary as it gives an opportunity, to the delinquent to explain his conduct and to the Inquiry Officer to have a better perspective of the controversy, as, it is not always possible to discern the truth from written replies and documents which may not necessarily convey the complete truth. Even where the delinquent does not dispute the veracity of the documentary evidence, oral enquiry is necessary as he may still have an explanation to offer. *"*

"The Rules of 1999 also require the Inquiry Officer to hold an enquiry into the charges except where the delinquent admits the charges (Rule 7vi), in such an eventuality, he can submit a report straight away. As per Sub Rule (iv) and (x) of Rule 7 if the delinquent does not file his written statement or does not appear, the Investigating officer shall proceed exparte. Where he files the written statement and denies the charges, as in the instant case, it shall proceed as per Rule 7(vii) and the following sub rules.

The reference to "documentary evidence" ***in Rule 7(iii) and (v) clearly indicates that the same have to be examined, as aforesaid, on the date to be fixed for enquiry, whether in the presence of the delinquent or in absentia (exparte). This requirement though not express is implicit in the aforesaid rules, as is the requirement of holding an oral enquiry,as it is a sine qua non for providing reasonable opportunity to defend and is part of the principles of natural justice under Article 311 and 14 of the Constitution.****"*

14. In the identical situation, this Court has also in ***Writ-A No. 27948 of 2010 (Ramswaroop Shukla Vs. State of U.P.)*** dated 27.02.2026 has held as under:

24. Thus, from the perusal of the aforesaid rules, it is apparent

> *that in case if neither in the charge-sheet nor in the reply submitted by the delinquent employee, any witness has been proposed, there is no express requirement in the said rules for according any oral inquiry to the delinquent employee before concluding the inquiry proceedings. However, in Kaptan Singh (supra), the Division Bench of this Court while interpreting the aforesaid Rules, relying upon the general principles of law as held in Roop Singh Negi (supra) and other judgments relied upon by the Division Bench, has interpreted the aforesaid Rules so as to mean that* ***after submission of the reply by the delinquent employee or even in the absence of reply by the delinquent employee to the charge-sheet, it is implicit in the aforesaid Rules, though not expressed, that there is requirement of holding of an oral inquiry as it is sine qua non for providing reasonable opportunity to defend and it is part of principles of natural justice under Articles 311 and 14 of the Constitution of India.****"*

15. In view of the aforesaid categorically settled position of law, it is settled that even if no reply has been filed by delinquent employee, it is obligatory upon the inquiry officer to fix date, time and place for conducting oral inquiry as well as the examination of the documents and only thereupon after considering the available documents, the conclusions are required to be drawn by the inquiry officer.

16. In the instant case, no such procedure has been adopted by the inquiry officer. In such view of the matter, the impugned order of reverting the petitioner to the original pay-scale is not sustainable on the basis of the aforesaid inquiry. Accordingly, the impugned order dated 17.03.2006 is hereby ***quashed***. The petitioner herein shall be entitled for all consequential benefits accordingly.

17. It is submitted by learned counsel for the petitioner that the petitioner has attained the age of superannuation in the year 2008. In such view of the matter, all consequential benefits treating the petitioner to be continuing on the pay-scale, which was available to the petitioner at the time of the passing of the impugned order till the date of his retirement

and all consequential benefits accordingly, shall be paid to the petitioner. All the arrears so calculated shall be paid to the petitioner within a period of eight weeks from the date of production of certified copy of this order. If the said arrears are not paid within the stipulated period, the respondents shall also be liable to pay interest on the amount so determined at the rate of 8 % per annum, till the date of actual payment.

(Anish Kumar Gupta,J.)

October 7, 2026
Shubham Arya

Digitally signed by :-
SHUBHAM ARYA
High Court of Judicature at Allahabad