2026:AHC:45817

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 27948 of 2010

Ram Swaroop Shukla

.....Petitioner(s)

Versus

State of U.P. and Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ashok Khare, Rakesh Kr. Shukla, Rakesh Kumar Shukla, Santosh Kumar Srivastava, Suresh C. Dwivedi
Counsel for Respondent(s)	:	C.S.C.

Court No. - 39

AFR

Judgement Reserved on 11.02.2026

Judgement Delivered on 27.02.2026

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Sri Santosh Kumar Srivastava, learned counsel for the petitioner and Sri Girijesh Kumar Tripathi, learned Additional Chief Standing Counsel for the State.

2. The instant petition has been filed by the petitioner herein seeking quashing of the order dated 17.12.2009, passed by respondent no.3, whereby the services of the petitioner herein were terminated and also seeking quashing of the order dated 30.04.2010, whereby the appeal preferred by the appellant herein was dismissed by the respondent no.2.

FACTS

3. The brief facts of the case are the petitioner herein was appointed on the post of Lekhpal in the year, 1980 and in the year, 2008, he was posted in the area of Domagor of Tehsil and District- Jhansi. On 04.10.2008, an F.I.R. being Case Crime No. 686 of 2008 under Sections 419, 420, 467, 471, 477-A and 120B I.P.C. was registered at the behest of the Revenue Inspector, Shri Buddhi Prakash, making out the allegations that the petitioner has treated one Brij Kishore as dead and passed a mutation order in favour of Rajendra Singh and Hari Mohan. In the aforesaid case, after investigation a final report was submitted on 21.10.2008.

4. In the final order it was categorically observed by the Investigation Officer (IO) that since the said Brij Kishore had left his house in the year, 1988 and has taken Sanyas and renowned the world, but his sons and relatives continued to search for him sufficiently for long period upto 1997. When the said Brij Kishore could not be traced out by them, in the year 1997 his sons and relatives have performed his last rites treating he is dead and thereafter they have applied for mutation of their names in place of his father. Since, the entire village has accepted that said Brij Kishore has died, in such circumstances it is further observed that Village Pradhan has also certified that he is dead. However, later on in the year, 2006, said Brij Kishore came in the village in the form of a *Sadhu* and did not raise any objection with regard to the mutation of his property in the name of his legal heirs i.e., his sons. Since, the neighbors of the land belonging to the sons of the said Brij Kishore, wanted to purchase the land from Hari Mohan etc., which they have refused to sell. Having regard to this he has made the complaints to the Higher Officials, therefore, it was concluded that there was no criminality attached to the action taken by the petitioner herein in passing the mutation order in favor of the legal heirs of the said Brij Kishore, on the basis of the Death Certificate issued by the Village Pradhan.

5. Subsequent to the filing of the aforesaid final report, another F.I.R. being Case Crime No. 2293 of 2008 under Section 420 I.P.C. was lodged against the petitioner herein alleging therein that the petitioner herein had torned the order प०क०-11 with regard to the Khata No. 349, whereby an alive person was shown as dead and name of his heirs were mutated.

6. The criminal proceedings of the aforesaid case was stayed by this Court on a Criminal Misc. Application under Section 482 Cr.P.C. No. 17392 of 2009 filed by the sons of the said Brij Kishore. Subsequent thereto, vide order dated 11.11.2008, the petitioner herein was suspended on the allegation that he has torned the order प०क०-11-क relating to Khata No. 349 of the year, 1359 Fasli, while inspecting the aforesaid file. Thereupon, on 21.03.2009, the inquiry officials has issued the following charge-sheet against the petitioner herein:

कार्यालय नियुक्ति एवं दण्डाधिकारी / जिलाधिकारी, झाँसी

संख्या:1586/रा०.ऑ.०-वि०का०/2004-05 दिनांक: मार्च 21, 2009

आरोप पत्र

श्री रामस्वरूप शुक्ला,

लेखपाल (निलम्बित),

तहसील-झॉसी।

तत्कालीन उप जिलाधिकारी झॉसी के आदेश संख्या-781/एस०टी०-वि०का०/2008.09 दिनॉक 11.11.2008 द्वारा आपको निलम्बित निमा गया तथा आपके विरूद्ध विभागीय कार्यवाही प्रारम्भ की गई। आपको निम्नलिखित आरोप से आरोपित किया जाता है :-

आरोप संध्या-1

आप द्वारा राजस्व अभिलेखालय, कलैक्ट्रेट, झाँसी में पहुँचकर ग्राम सेरसा तहसील मोंठ, जिला झाँसी के खाता संख्या 349 की सन् 1359 फ० की खतौनी का मुआयना करने के बहाने उसमें से प०क०-11-क का आदेश चोरी से फाड लिया गया । इस प्रकार आप राजस्व अभिलेखों को नष्ट करने के दोषी हैं।

उक्त आरोप की पुष्टि में निम्नलिखित साक्ष्य पठनीय है :-

(1) राजस्व अभिलेखपाल की आख्या दिनॉक 25.9.2008

(2) प्रभारी अधिकारी राजस्व अभिलेखागार की आख्या दिनोंक- 25.9.2008.

(3) प्रथम सूचना रिपोर्ट मु०अ०सं2293/08 धारा 420आई.पी.सी.।

आरोप संख्या-2

आप व्दारा आय से अधिक निम्नलिखित सम्पत्ति अर्जित की गई है जिस लिए कोई अनुमति प्राप्त नहीं की गई है ।

1. कस्वा मऊरानीपुर में गुरसराय रोड पर स्टेशन के सामने कीमती मकान लगभग 15 लाख का व सत्संग भवन लगभग एक लाख रूपये का बना रखा है।

2. झाँसी नगर में लक्ष्मीगेट रोड पर कैलाश रेजीडेन्सी में भवन सं० 110 कोमती 20 लाख रूपये है, में निवास करते हैं जो आप द्वारा क्रय किया गया है किन्तु कोई अनुमति प्राप्त नहीं की गई।

3. तीन पुत्रियों की शादी में 12 लाख रूपये व्यय किया है तथा 20 बीघा भूमि है।

4. आपके रहन-सहन का स्तर आय से अधिक व्यय का है।

उक्त आरोप की पुष्टि में निम्नलिखित साक्ष्य पठनीय हैं:-

(1) निरीक्षक स्थानीय अभिसूचना इकाई की आख्या दिनांक 11.1.2009

आरोप सं०-3

आप द्वारा बिना किसी आधार के गाँवसभा की मूल्यवान भूमि मौजा नयागाँव की खतौनी फ० के गाटा सं0 790 मि रकवा 0.894 को श्रेणी 5 बंजर से निरस्त किर श्रेणी-6 रास्ता अंकित करने की आख्या दिनांक 8.12.2003 प्रस्तुत की गई थी जबकि मौके पर किसी प्रकार की सडक नहीं थी और न ही आज सडक है। इस

प्रकार आप फर्जी आख्या प्रस्तुत कर फजी तौर पर भूमि परिवर्तन की आख्या प्रेषित करने के दोषी हैं।

उक्त आरोप की पुष्टि में निम्नलिखित साक्ष्य पठनीय हैं:-

(1) आख्या दिनोंक 8.12.2003 की प्रतिलिपि।

(2) तहसीलदार झाँसी की आख्या दिनॉक 26.2.2009 की प्रति।

(2) परगनाधिकारी झॉसी के आदेश दिनाँक 17.12.2003 की प्रतिः।

(3) परगनाधिकारी झाँसी के आदेश दिनांक 04.03.2009 की प्रति।

उपरोक्त आरोप पत्र के सम्बन्ध में आप अपना उत्तर 15 दिवस के अन्दर जाँच अधिकारी अथवा उप जिलाधिकारी झाँसी के समक्ष प्रस्तुत करे।

आपसे पुनः अपेक्षा की जाती है कि आप नियत समय पर ही अपना उत्तर प्रस्तुत करना सुनिश्चित करें। यति आपका उत्तरः समय के अन्दर प्राप्त नहीं होता है तो आपके विरूद्ध एक पक्षीय कार्यवाही की जायेगी। यह कि इस कार्यवाही में यदि किसी से आप जिरह अथवा गबाही अपेक्षित हो तो उसका नाम व पता सहित जिरह की विषय वस्तु अपने उत्तर में अंकित करें।

(डा०मुत्तु कुमार स्वामी बी.)

नियुक्ति एवं दण्डाधिकारी

/ उप जिलाधिकारी झाँसी।

पत्रांक एवं दिनॉक उक्त ।

प्रतिलिपिः-तहसीलदार, झॉसी को आरोप पत्र दो प्रतियों में इस आशय से कि एक प्रति आरोपी कर्मचारी पर तामील कराकर सदिनॉक पूर्ण हस्ताक्षर प्राप्त कर आवश्यक कार्यवाही करें तथा जाँच आख्या आरोप पत्र का उत्तर प्राप्त होने के उपरान्त अधोहस्ताक्षरी को समक्ष आर्देशार्थ प्रस्तुत करें।

(डा०मुत्तु कुमार स्वामी बी.)

नियुक्ति एवं दण्डाधिकारी

/ उप जिलाधिकारी झाँसी।

7. In the aforesaid charge-sheet, the inquiry officer has not proposed any of the witnesses to be examined in support of the charges.

8. In the reply to the aforesaid charge-sheet as well, the petitioner herein has also not proposed any of the witnesses to be examined in support of his defense. Though, he

has submitted the following documents along with his reply dated 23.06.2009:

"संलग्नक :-

1. भूमि प्रबंधक समिति डोमागोर प्रस्ताव की छाया प्रति।

2. श्री कैलाश नारायण गुप्ता दिया गया शपथपत्र।

3. श्री लक्ष्मीदेवी द्वारा दिया गया शपथ पत्र।

4. थाना नवाबाद व थाना पूंछ की एफ.आई.आर. की छाया प्रति।

5. अभिलेखापाल श्री बृजेश श्रीवास्तव व ओमप्रकाश आदि के ब्यानों की छाया प्रति।

6. अभिलेखागार में दिया गये प्रश्नोत्तरी की छाया प्रति ।"

9. After submission of the reply by the petitioner herein, Inquiry Officer has proceeded to examine the charge-sheet, reply submitted by the petitioner and the documents available on record and on the basis thereof, he has recorded its finding with regard to all the three charges without giving any opportunity of oral hearing to the petitioner herein or without examining any witnesses in support of the case of the department and with regard to the first charge of tearing of the order पoक-11 from the revenue records, it has been found that Charge No.1 has been proved against the petitioner. Charge No.2 has been found to have been proved partially against the petitioner and Charge No.3 found to have been proved against the petitioner.

10. In the inquiry report dated 31.10.2009. After receipt of the said inquiry report by the SDM, the Disciplinary Authority issued show cause notice dated 10.11.2000 against the petitioner herein along with copy of the inquiry report. Thereupon, the petitioner herein has submitted a detailed reply on 11.12.2009 to the aforesaid show cause notice. Thereupon, vide impugned order dated 17.12.2009, the Disciplinary Authority has terminated the services of the petitioner herein.

11. Against the aforesaid termination order dated 17.12.2009, the petitioner herein has approached this Court by filing Civil Misc. Writ Petition No.1760 of 2010. The aforesaid writ petition was disposed of vide judgement and order dated 18.01.2010, directing the petitioner herein to file the statutory appeal within 15 days before the District Magistrate, Jhansi. Thereupon, the petitioner herein has filed his statutory appeal on 01.02.2010 before the District Magistrate. The District Magistrate vide impugned order dated 30.04.2010 has considered the submissions made in the appeal by the appellant herein and thereupon the Appellate Authority has found the Charges No. 1 and 3 to have been proved against the appellant and Charge No.2 was partially

proved against the petitioner. Being aggrieved by the aforesaid two orders, the instant petition has been filed by the petitioner herein.

SUBMISSION BY THE PETITIONER

12. Contention of learned counsel for the petitioner is that while concluding the inquiry, the Inquiry Officer has not followed the procedure as prescribed under Uttar Pradesh Government Servant (Discipline and Appeal) Rules 1999, neither the Inquiry Officer has examined any of the witnesses in support of the documents relied upon by the petitioner herein nor any opportunity of oral hearing has ever been accorded by the Inquiry Officer to explain to the charges leveled by the Inquiry Officer. Therefore, the entire inquiry proceeding is vitiated and cannot be relied upon for his dismissal.

13. It has further argued by learned counsel for the petitioner that the Disciplinary Authority has also not taken any independent decision after considering his reply to the show cause notice and the charges leveled against the petitioner herein. The Disciplinary Authority has simply relied upon the findings recorded by the Inquiry Officer and the same has been upheld and the termination order has been passed against the petitioner herein. Likewise, the Appellate Authority has also not applied its mind to the facts of the case and has simply relied upon the findings recorded by the Inquiry Officer and dismissed the appeal.

14. Learned counsel for the petitioner further submits that after submission of reply to the charge-sheet by the petitioner, it was the duty of the Inquiry Officer to fix a date and time for oral hearing in the matter, giving an opportunity of hearing to the petitioner herein before concluding the inquiry proceedings, the same has not been done in the instant case by Inquiry Officer. Therefore, the entire inquiry proceedings is vitiated and against the settled principles of natural justice and against the provisions of 1999 Rules as has been interpreted by various judgments of this Court as well by the Apex Court.

15. In support of his submission, he has relied upon the judgment of the Apex Court in ***Roop Singh Negi v. Punjab National Bank, (2009) 2 SCC 570, Divl. Forest Officer v. Madhusudhan Rao, (2008) 3 SCC 469, Rani Lakshmi Bai Kshetriya Gramin Bank v. Jagdish Sharan Varshney, (2009) 4 SCC 240 and Satyendra Singh vs. State of U.P. and Another*** arising out of ***SLP (Civil) No.(2). 29758 of 2018 dated 18.11.2024.*** He has also relied upon the judgements of the Division Benches of this Court in ***State of U.P. and Others vs. Mam Chand Tyagi and Another, [2017 (6) ADJ 723 (DB)(LB)] of Lucknow Bench, Kaptan Singh vs. State of U.P. and Another (Writ A No. 25240 of 2014, judgement dated 14.05.2014) and the judgements.*** He has further relied upon the judgements of the Coordinate Bench of this Court in ***Rajesh Kumar Mall vs. State of U.P. and Another (Writ A No. 1498 of 2024 dated 15.02.2024)***.

SUBMISSION ON BEHALF OF STATE

16. *Per contra*, learned Additional Chief Standing Counsel for the State submitted that Rule 7(iii) of 1999 Rules provides that while issuing the charge-sheet, it is incumbent upon the Inquiry Officer to name all the witnesses and also the documents which are to be relied upon by the Inquiry Officer during the disciplinary proceedings against the delinquent employee. From the perusal of the charge-sheet, it is apparent that though certain documents have been mentioned in the charge-sheet, however, the Disciplinary Authority has not proposed any witnesses to be examined in support of the charges. Likewise, Rule 7(iv) also provides that delinquent employee is also supposed to categorically mention the names of the witnesses which he wish to propose to be examined during inquiry and also the documents to be relied upon by the delinquent employee. From the perusal of the reply submitted by the petitioner herein, it is apparent that he has not proposed any witnesses to be examined during inquiry proceedings in support of his version. Though, he has relied upon certain documents which were annexed along with reply.

17. Learned Additional Chief Standing Counsel for the State submits that since both sides have not proposed any witness to to be examined during inquiry proceedings, therefore, there was no occasion for the Inquiry Officer to examine any of the witnesses during the inquiry proceedings. Therefore, he was not obliged to fix any date and time in the instant disciplinary proceedings. Further, 1999 Rules do not provide that any oral hearing be accorded prior to concluding the disciplinary proceeding against the delinquent employee. In view thereof, there is no infirmity in the procedure adopted by the Inquiry Officer in the instant case. So far as the disciplinary proceedings as well as the Appellate Authority are concerned, they have given detailed discussion with regard to the charges leveled and the findings of the Inquiry Officer as well as the explanation submitted by the petitioner herein and thereupon the Disciplinary Authority having found the charges against the petitioner having been proved, has passed the order of termination of the petitioner herein. Likewise, in the appeal preferred by the petitioner herein, the Appellate Authority has also applied its mind to the facts and circumstances of the case, explanation submitted by the petitioner herein as well as the material available on record and thereupon has upheld the termination of the petition by dismissing the appeal. Therefore, there is no illegality in the entire procedure adopted in the instant case by the respondents. Accordingly, learned Additional Chief Standing Counsel for the State prayed for dismissal of the instant petition.

ANALYSIS

18. Having heard the rival submissions so made by learned counsel for the parties, this Court has carefully gone through the record of the case. The facts of the case have already been noted hereinabove. Before proceeding further, it would be relevant to

take note of the Rule 7 of Rules 1999, which reads as under:

> *"7.* ***Procedure for imposing major penalties****.-Before imposing any major penalty on a Government servant, an inquiry shall be held in the following manner:*
>
> *i.The disciplinary authority may himself inquire into the charges or appoint an authority subordinate to him as Inquiry Officer to inquire into the charges.*
>
> *ii.The facts constituting the misconduct on which it is proposed to take action shall be reduced in the form of definite charge or charges to be called charge-sheet. The charge-sheet shall be approved by the disciplinary authority: Provided that where the appointing authority is Governor, the charge-sheet may be approved by the Principal Secretary or the Secretary; as the case may be, of the concerned department.*
>
> *iii.The charges framed shall be so precise and clear as to give sufficient indication to the charged Government servant of the facts and circumstances against him.* ***The proposed documentary evidence and the name of the witnesses proposed to prove the same alongwith oral evidence, if any, shall be mentioned in the charge-sheet****.*
>
> *iv.The charged Government servant shall be required to put in a written statement of his defence in person on a specified date which shall not be less than 15 days from the date of issue of charge-sheet* ***and to state whether he desires to cross-examine any witness mentioned in the charge-sheet and whether desires to give or produce evidence in his defence. He shall also be informed that in case he does not appear or file the written*** *statement on the specified date, it will be presumed that he has none to furnish and Inquiry Officer shall proceed to complete the inquiry ex parte.*
>
> *v.The charge-sheet, alongwith the copy of the documentary evidence mentioned therein and list of witnesses and their statements, if any, shall be served on the charged Government servant personally or by registered post at the address mentioned in the official records. In case the charge-sheet could not be served in aforesaid manner, the charge-sheet shall be served by publication in a daily newspaper having wide circulation:*
>
> *Provided that where the documentary evidence is voluminous, instead of furnishing its copy with charge-sheet, the charged Government servant shall be permitted to inspect the same before the Inquiry Officer.*

vi.Where the charged Government servant appears and admits the charges, the Inquiry Officer shall submit his report to the disciplinary authority on the basis of such admission.

*vii.**Where the charged Government servant denies the charges, the Inquiry Officer shall proceed** to call the **witnesses proposed in the charge-sheet** and record their oral evidence in presence of the charged Government servant who shall be given **opportunity to cross-examine such witnesses**. After recording the aforesaid evidence which the charged Government servant desired in his written statement to be produced in his defence:*

*Provided that the Inquiry Officer **may** for reasons to be recorded in writing **refuse to call a witness**.*

*viii.The Inquiry Officer **may summon any witness** to give evidence or require any person to produce documents before him in accordance with the provisions of the Uttar Pradesh Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1976.*

*ix.The Inquiry Officer **may ask any question he pleases, at any time of any witness or from person charged with a view to discover the truth or to obtain proper proof of facts relevant to charges.***

*x.Where the charged Government servant does not appear on the date fixed in the inquiry or at any stage of the proceeding inspite of the service of the notice on him or having knowledge of the date, the Inquiry Officer shall proceed with the inquiry **ex parte**. In such a case the Inquiry Officer shall record the statement of witnesses mentioned in the charge-sheet in absence of the charged Government servant.*

xi.The disciplinary authority, if it considers it necessary to do so, may, by an order appoint a Government servant or a legal practitioner,to be known as "Presenting Officer" to present on its behalf the case in support of the charge.

xii.The Government servant may take the assistance of any other Government servant to present the case on his behalf but not engage a legal practitioner for the purpose unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner of the disciplinary authority having regard to the circumstances of the case so permits:

Provided that this rule shall not apply in following cases:

(i) Where any major penalty is imposed on a person on the ground of conduct which has led to his conviction on a criminal charge; or

(ii) Where the disciplinary authority is satisfied that 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 Governor is satisfied that, in the interest of the security of the State, it is expedient to hold an enquiry in the manner provided in these rules."

19. So far as the judgment in ***Roop Singh Negi*** (supra) is concerned, the Apex Court has relied upon the general principle to be applied in the disciplinary proceedings in the cases where there are no specific rules in this regard. In ***Roop Singh Negi*** (supra), the Apex Court has observed as under:

"14. Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. ***The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties****. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the enquiry officer on the FIR which could not have been treated as evidence.*

23. Furthermore, the order of the disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied upon the confession made by the appellant, there was no reason as to why the order of discharge passed by the criminal court on the basis of selfsame evidence should not have been taken into consideration. ***The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible****. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the* ***principles of natural justice are****. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inferences drawn by the enquiry officer apparently were not supported by any evidence. Suspicion,*

as is well known, however high may be, can under no circumstances be held to be a substitute for legal proof."

20. Likewise, in ***Moni Shankar v. Union of India [(2008) 3 SCC 484 : (2008)***, the Apex Court held as under:

"*17. The* ***departmental proceeding is a quasi-judicial one****. Although the provisions of the Evidence Act are not applicable in the said proceeding, principles of natural justice are required to be complied with. The courts exercising power of judicial review are entitled to consider* ***as to whether while inferring commission of misconduct on the part of a delinquent officer relevant piece of evidence has been taken into consideration and irrelevant facts have been excluded therefrom****. Inference on facts must be based on evidence which meet the requirements of legal principles. The Tribunal was, thus, entitled to arrive at its own conclusion on the premise that the evidence adduced by the Department, even if it is taken on its face value to be correct in its entirety, meet the requirements of burden of proof, namely, preponderance of probability. If on such evidences, the test of the doctrine of proportionality has not been satisfied, the Tribunal was within its domain to interfere. We must place on record that the doctrine of unreasonableness is giving way to the doctrine of proportionality."*

21. In ***Satyendra Singh*** (supra), the Apex Court though has referred to the 1999 Rules, has observed as under:

"17. Thus, even in an ex-parte inquiry, it is sine qua non to record the evidence of the witnesses for proving the charges. Having tested the facts of the case at hand on the touchstone of the Rules of 1999, and the law as expounded by this Court in the cases of ***Roop Singh Negi****[15] and* ***Nirmala J. Jhala****[9] : (2013) 4 SCC 301 , we are of the firm view that the inquiry proceedings conducted against the appellant pertaining to charges punishable with major penalty,* ***were totally vitiated and non-est in the eyes of law since no oral evidence whatsoever was recorded by the department in support of the charges.****"*

22. 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.****"*

23. In ***Rajesh Kumar Mall*** (supra), the Co-ordinate Bench of this Court has observed as under:

"17. It is well settled law that during enquiry proceeding the principle of natural justice must be followed i.e. the documents relied upon, be provided to the charged employee, opportunity to adduce the evidence be

provided, statement of witnesses for establishing the charges be recorded and opportunity to cross examine the witnesses be provided, whereas in the present case no such procedure has been followed. The petitioner has not been given opportunity to adduce the evidence and cross examine the witnesses and no witnesses has been examined by the enquiry officer in support of the charges levelled against the petitioner. "

CONCLUSION

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**.

25. Admittedly, in the instant case, it is evident from the record as well as and from the inquiry report itself that after submission of reply to the charge-sheet by the petitioner herein, **no date and time has ever been fixed for any further hearing in the instant case by the Inquiry Officer, nor any opportunity of oral hearing to the petitioner has ever been granted**. In view of the aforesaid binding precedent in ***Kaptan Singh*** (supra), it is an implicit duty of the Inquiry Officer to afford an opportunity of hearing to the delinquent employee before concluding the inquiry proceedings. Since, such opportunity has never been granted in the instant case to the petitioner herein, thus, the inquiry report without affording such opportunity of hearing to the delinquent employee to the petitioner cannot be relied upon for termination of service of the petitioner herein. Thus, the entire proceedings against the petitioner is vitiated. In view thereof, the orders passed by the Disciplinary Authority as well as by the Appellate Authority are not sustainable in law.

26. Therefore, the instant writ petition is ***allowed***. The order dated 17.12.2009 passed by the Disciplinary Authority and order dated 30.04.2010 passed by the Appellant Authority are ***set-aside***. Ordinarily, while setting aside the order of termination order, the matter is required to be remitted back for concluding the disciplinary proceedings from the stage it was vitiated. However, since the petitioner has already attained the age of superannuation on 09.01.2018, no fruitful purpose would be served in remitting

back the matter at this stage, hence, this Court refrains from remitting back the matter to the Disciplinary Authority.

(Anish Kumar Gupta,J.)

February 27, 2026
Shubham Arya