



2026:AHC:167502

Reserved

HIGH COURT OF JUDICATURE AT ALLAHABAD

SECOND APPEAL No. – 805 of 1980

Ram Asarey		Appellant(s)
	Versus	
Union of India		Respondent(s)

Counsel for Appellant(s)	:	Bharat Ji Agarwal, Pramod K.Sinha, Rakesh Kumar Agrawal
Counsel for Respondent(s)	:	Arvind Kumar Goswami

Court No. - 51

HON'BLE ARUN KUMAR, J.

1. Heard Sri Pramod Kumar Sinha, learned counsel for the appellant, and Sri Arvind Kumar Goswami, learned counsel for the respondent.
2. The present second appeal has been filed challenging the judgment and decree of the first appellate court dated 19.04.1977, passed in Civil Appeal No. 188 of 1976, arising out of Original Suit No. 314 of 1972.
3. The facts of the case, in brief, are that the appellant was appointed as an S.S. Rebitor in the North Eastern Railway Workshop, Izatnagar, Bareilly. While working on the said post, he was suspended on 28.07.1967 on charges of theft. In the departmental inquiry initiated against him, he was removed from service by the order dated 10.04.1968, which was communicated to him by the order dated 04.05.1970/01.06.1970.

4. Aggrieved by his removal from service, the appellant filed Original Suit No. 314 of 1972 challenging the order, claiming that his removal from service was illegal and void. He further sought reinstatement to his original post along with arrears of pay and allowances.
5. The appellant challenged the orders of suspension and removal on the ground that the charge-sheet had not been issued by the competent authority, nor had the Inquiry Officer been appointed in accordance with the disciplinary rules. He further contended that the charge-sheet was illegal as it did not contain the list of witnesses and documents relied upon. It was also argued that the charge of theft was unsustainable in the absence of any criminal prosecution and that the findings of the Inquiry Officer were based on conjectures and surmises. The trial court decreed the suit on the ground that the charge-sheet had not been issued by the Works Manager, nor had the Inquiry Officer been appointed by the appointing authority. Consequently, the entire disciplinary proceedings stood vitiated.
6. By the judgment and decree dated 19.01.1976, the trial court set aside the order of removal from service and decreed the suit, directing reinstatement of the plaintiff-appellant along with arrears of pay and allowances from the date of his suspension and payment of *pendente lite* salary and allowances during the pendency of the suit.
7. Aggrieved by the judgment and decree of the trial court, the defendant-respondent filed Civil Appeal No. 188 of 1976. The appeal was allowed, and the judgment and decree dated 19.01.1976 were set aside, resulting in the dismissal of the plaintiff's suit. The lower appellate court held that the Assistant Works Manager was competent to issue the charge-sheet and appoint the Inquiry Officer, as he was authorised to impose the

lowest of the major penalties specified under the Discipline and Appeal Rules.

8. The present second appeal has been filed challenging the judgment and decree of the lower appellate court dated 19.04.1977. By order dated 22.04.1980, this Court framed the following substantial question of law:

"Whether the entire departmental proceedings relating to the dismissal of the plaintiff-appellant are illegal on the ground that the charge-sheet was not issued by the proper authority and the inquiry was not conducted by the Inquiry Officer as contemplated under the Service and Disciplinary Rules, 1961, and whether the lower appellate court erred in law in holding otherwise?"

9. Learned counsel for the appellant, while addressing the aforesaid substantial question of law, contended that the lower appellate court had misread the provisions of the Service and Disciplinary Rules, 1961, in holding that the Assistant Works Manager, an officer subordinate to the appointing authority, was competent to issue the charge-sheet and appoint the Inquiry Officer. It was submitted that the lower appellate court, while referring to proviso (c) of Rule 1707 of the Indian Railway Establishment Code, erroneously held that an officer competent to impose even the lowest of the major penalties was also competent to issue the charge-sheet, appoint the Inquiry Officer, conduct the disciplinary proceedings, and ultimately impose any major penalty.
10. It was further contended that, under the Rules, where the proposed charge entails a major penalty, the charge-sheet must be signed by the same authority competent to impose such major penalty, including removal or dismissal from service. In the present case, the disciplinary authority was admittedly the Works Manager, who ultimately passed the order of removal from service. However, the charge-sheet was issued by the Assistant Works Manager, who

also appointed the Inquiry Officer. Therefore, the conclusion reached by the lower appellate court is contrary to the provisions contained in Rules 1707, 1710, and 1712 of the Indian Railway Establishment Code and amounts to a misinterpretation thereof.

11. Per contra, learned counsel appearing for the Union of India, the defendant-respondent, vehemently argued that the plaintiff-appellant had been caught red-handed stealing approximately 1 kg of copper wire by concealing it in his shoes. It was submitted that, in view of the proved act of theft, the penalty of removal from service was fully justified in law. It was further argued that, since the trial court had rejected all other grounds challenging the removal order and decreed the suit solely on the ground that the charge-sheet had not been issued and the Inquiry Officer had not been appointed by the competent authority, the findings of the trial court rejecting the other challenges to the departmental inquiry had attained finality and, therefore, the appellant could not seek reconsideration of those issues in the present second appeal.
12. I have considered the submissions advanced by learned counsel for the parties and perused the record.
13. It is not in dispute that the plaintiff-appellant was removed from service pursuant to his suspension on the charge of theft for stealing approximately 1 kg of copper wire by concealing it in his shoes. As the suit was decreed solely on the ground that the charge-sheet had not been issued and the Inquiry Officer had not been appointed by the competent authority, while all other objections relating to procedural irregularities in the inquiry were rejected, those findings were never challenged by the plaintiff by way of appeal or cross-objections and, therefore, attained finality. Since the appellant did not challenge the trial court's rejection of the remaining grounds, those questions no longer survive for consideration in the present appeal.

14. While setting aside the judgment of the trial court, the lower appellate court held that, ordinarily, the disciplinary authority in cases involving major penalties is the appointing authority. The lower appellate court proceeded on the premise that, for the limited purpose of issuing a charge-sheet, the expression "disciplinary authority" also included an authority competent to impose only the lowest of the major penalties. Referring to Rules 1710 and 1712, the court observed that, in the present case, the Assistant Works Manager was competent to impose the lowest major penalty, namely reduction to a lower service, grade, post, scale, or stage in the time scale of pay. It further observed that Rule 1710 empowered the disciplinary authority either to inquire into the charges itself or to appoint an Inquiry Officer. Accordingly, it held that the issuance of the charge-sheet by the Assistant Works Manager was valid under the proviso to the definition of "disciplinary authority."
15. The aforesaid reasoning of the lower appellate court overlooks the fact that the Rules specifically provide that a charge-sheet proposing a major penalty must be signed by the authority competent to impose such major penalty. Under the Rules then in force, the penalty of removal from service could be imposed only by the appointing authority, namely the Works Manager. Therefore, the issuance of the charge-sheet and the appointment of the Inquiry Officer by the Assistant Works Manager were contrary to law. A conjoint reading of Rules 1707, 1710, and 1712 makes it clear that where a subordinate authority is empowered to impose only such major penalties as fall within its own disciplinary jurisdiction, its authority to issue a charge-sheet or appoint an Inquiry Officer extends only to proceedings which it is itself competent to conclude. The interpretation adopted by the lower appellate court that any officer empowered to impose any one of the major penalties becomes competent to initiate proceedings for

the imposition of the major penalty of removal from service is wholly untenable, as it would render the scheme of Rule 1702 nugatory, since it specifically identifies the appointing authority as the competent disciplinary authority for imposing the penalty of removal from service.

16. In view of the aforesaid discussion, it is evident that, for awarding the penalty of removal from service, the competent disciplinary authority was the Works Manager, who, in fact, passed the order of removal. Consequently, the charge-sheet ought to have been signed and issued by him. He alone was competent either to conduct the inquiry himself or to appoint an Inquiry Officer in proceedings for the proposed penalty of removal. However, in the present case, the charge-sheet was signed by the Assistant Works Manager, who also appointed the Assistant Works Manager (Crane) as the Inquiry Officer. Such action was contrary to law and is therefore unsustainable.
17. The lower appellate court proceeded on an erroneous interpretation of the relevant disciplinary rules. Consequently, its judgment and decree dated 19.04.1977 cannot be sustained and are liable to be set aside.
18. The substantial question of law is answered in favour of the appellant. Consequently, the judgment and decree dated 19.04.1977 passed by the lower appellate court are set aside, and the judgment and decree dated 19.01.1976 passed by the trial court are restored.
19. The second appeal is accordingly allowed. There shall be no order as to costs.

(Arun Kumar,J.)

August 11, 2026

Ranjeet Sahu