



2026:AHC-LKO:19906

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 7899 of 2025

Vivek Kumar Srivastav

.....Petitioner(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. Krishi
Vipran Evam Krishi Videsh Vyapar Lko. And 4
Others

.....Respondent(s)

Counsel for Petitioner(s)	: Ram Raj, Deepanshu Dass, Gokul Seth, Kanchan Rawat, Lalta Prasad Misra
Counsel for Respondent(s)	: C.S.C., Aditya Mohan, Mahendra Pratap Singh, Surendra Kumar Singh

Court No. - 18

HON'BLE SHREE PRAKASH SINGH, J.

Heard Mr. Deepanshu Dass, learned counsel for the petitioner, Mr. Mahendra Pratap Singh and Mr. Surendra Kumar Singh, learned counsels for the opposite parties no. 2 to 5, Mr. P.K.Singh, learned Additional Chief Standing Counsel for the State and perused the record.

By means of the present writ petition, the petitioner has assailed the impugned order dated 04-06-2025 passed by the appellate authority and the order dated 04-07-2024 passed by the disciplinary authority including the enquiry report dated 27-02-2023 and the chargesheet dated 29-08-2022. Further the orders dated 07-07-2022 and 07-03-2025 are also under challenge.

Submission of learned counsel for the petitioner is that the petitioner was appointed on 20-12-2007 on compassionate ground as Mandi Paryavekshak (Supervisor) in the respondent no. 2 department and he kept on working in the department to the best satisfaction of his superiors and his career remained unblemished till the adversarial order has been passed against him.

Further submission is that on 07-07-2022, the petitioner was placed under suspension by the opposite party no. 3 and the

enquiry proceeding was contemplated against him. He added that the chargesheet was furnished to the petitioner on 29-08-2022 and the documents were sought by the petitioner on 09-09-2022. He submits that the petitioner submitted his interim reply on 08-10-2022 and sought time for personal/oral hearing, but, without affording the opportunity of personal/oral hearing to the petitioner, the enquiry officer proceeded with the enquiry and submitted its enquiry report on 27-02-2023.

He argued that after the enquiry report was submitted to the disciplinary authority, the petitioner filed the representation against the enquiry report and has taken the plea that without affording the opportunity of personal/oral hearing, the enquiry officer has prepared the enquiry report, but, the same has been ignored by the disciplinary authority and the punishment has been awarded to the petitioner.

Further submission is that being aggrieved, the petitioner also instituted an appeal before the Principal Secretary of the department namely, Krishi Vipran Evam Krishi Videsh Vypar, but, he has ignored the same.

Next contention of learned counsel for the petitioner is that since the enquiry proceeding itself vitiates, as the same goes against the settled proposition of law, as no personal/oral opportunity of hearing was accorded to the petitioner, thus, the enquiry report including the subsequent proceeding thereof i.e. the order passed by the disciplinary authority as well as the appellate authority are unsustainable in the eyes of law.

On the other hand, Mr. Mahendra Pratap Singh, learned counsel appearing for the respondent-department has argued that after the petitioner was placed under suspension, the enquiry officer was appointed and the enquiry was contemplated. He submits that the chargesheet was prepared with the clear contents and admittedly, the same was served upon the petitioner alongwith the evidence and the same was replied. He added that the enquiry officer has

properly prepared the enquiry report, therefore, there is no ambiguity in the enquiry report. He submitted that the petitioner was also accorded the opportunity of personal/oral hearing, vide letter dated 29-10-2022, so as to give reply, if he so desires, thus there is no erroneousness in the enquiry report as well as the order passed by the disciplinary authority and the appellate authority. Therefore,, submission is that no interference is warranted.

Upon considering the submissions of learned counsels for the parties and after perusal of records, it transpires that the enquiry proceeding was instituted against the petitioner by serving the chargesheet upon him, on 29-08-2022 and the petitioner submitted his interim reply and further date was fixed on 29-10-2022 and on the said date, the proceeding of hearing was closed without calling the witnesses as well as providing the opportunity of oral/personal hearing by fixing a date and time by the enquiry officer.

From perusal of the response filed by the opposite parties, it is nowhere said that the opportunity of personal/oral hearing was accorded to the petitioner after calling the witnesses and giving the petitioner time to cross examine them.

This court finds that the law is settled by the Hon'ble Apex Court in the case of **Dharmapal Satyapal Limited Vs Deputy Commissioner of Central Excise, Gauhati And Others**, reported in **(2015) 8 Supreme Court Cases 519**. The relevant paragraphs of the said Judgment are given as follows;

18.Even if that provision is not applicable, it is fundamental that before taking any adverse action against a person, requirement of principles of natural justice is to be fulfilled. This Court in CCE v. I.T.C. Ltd. [(1995) 2 SCC 38] has held that show cause and personal hearing is necessary before saddling an assessee with additional demand. It is also trite that when a statute is silent, with no positive words in the Act or the Rules spelling out need to hear the party whose rights or interests are likely to be affected, requirement to follow fair procedure before taking a decision must be read into the statute, unless the statute provides otherwise.

27. It, thus, cannot be denied that the principles of natural justice are grounded in procedural fairness which ensures taking of correct decisions and procedural fairness is fundamentally an instrumental good, in the sense that procedure should be designed to ensure accurate or appropriate outcomes. In fact, procedural fairness is valuable in both instrumental and non-instrumental terms.

28. It is on the aforesaid jurisprudential premise that the fundamental principles of natural justice, including audi alteram partem, have developed. It is for this reason that the courts have consistently insisted that such procedural fairness has to be adhered to before a decision is made and infraction thereof has led to the quashing of decisions taken. In many statutes, provisions are made ensuring that a notice is given to a person against whom an order is likely to be passed before a decision is made, but there may be instances where though an authority is vested with the powers to pass such orders, which affect the liberty or property of an individual but the statute may not contain a provision for prior hearing. But what is important to be noted is that the applicability of principles of natural justice is not dependent upon any statutory provision. The principle has to be mandatorily applied irrespective of the fact as to whether there is any such statutory provision or not.

47. In Escorts Farms Ltd. v. Commr. [(2004) 4 SCC 281] , this Court, while reiterating the position that rules of natural justice are to be followed for doing substantial justice, held that, at the same time, it would be of no use if it amounts to completing a mere ritual of hearing without possibility of any change in the decision of the case on merits. It was so explained in the following terms : (SCC pp. 309-10, para 64)

“64. Right of hearing to a necessary party is a valuable right. Denial of such right is serious breach of statutory procedure prescribed and violation of rules of natural justice. In these appeals preferred by the holder of lands and some other transferees, we have found that the terms of government grant did not permit transfers of land without permission of the State as grantor. Remand of cases of a group of transferees who were not heard, would, therefore, be of no legal consequence, more so, when on this legal question all affected parties have got full opportunity of hearing before the High Court and in this appeal before this Court. Rules of natural justice are to be followed for doing substantial justice and not for completing a mere

ritual of hearing without possibility of any change in the decision of the case on merits. In view of the legal position explained by us above, we, therefore, refrain from remanding these cases in exercise of our discretionary powers under Article 136 of the Constitution of India."

Further, this court has also taken note of the Rule 7 of the U.P. Government Servant (Discipline and Appeal) Rules, 1999(hereinafter referred to as "Rules, 1999"), which reads as follows:-

"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 evidences 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, the Inquiry Officer shall call and record the oral 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 reason 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 not expedient to hold an inquiry in the manner provided in these rules."*

From bare perusal of the aforesaid provision, it is apparent that the Rule 7 of the "Rules, 1999" itself explains that "where the charged government servant denies the charges, the enquiry officer shall proceed to call the witnesses proposed in the chargesheet and record their oral evidence in presence of the charged government servant", which is highly missing in the present case.

It is apparent that the provision of sub-rule(vii) of the "Rules, 1999" has not been followed in it's letter and spirit by the enquiry officer and therefore, the enquiry report is against the aforesaid provision itself.

The disciplinary authority while treating the enquiry report, in consonance with law, has relied upon the same and has passed the punishment order, awarding the punishment against the petitioner and further the appellate authority has also not interfered while ignoring the plea of the petitioner with respect to the law that the orders impugned have been passed de horsing the rules.

Consequently, this court finds that the orders impugned passed by the appellate authority as well as the disciplinary authority are against the law as well as the settled proposition of law. Thus, the

same are unsustainable.

Resultantly, the orders dated 04-06-2025, 04-07-2025 and 27-02-2023 are hereby quashed.

Liberty is given to the respondent-department to proceed a fresh enquiry, after the stage of the chargesheet and conclude the disciplinary proceedings within the period of four months from the date a certified copy of this order is produced before it.

It is clarified that the petitioner would be at liberty to file fresh reply to the chargesheet, which has already been furnished to the petitioner, which is an admitted fact, within period of ten days and after receiving the same, the enquiry officer shall proceed in accordance with law.

The writ petition is **allowed accordingly**.

No order as to costs.

(Shree Prakash Singh,J.)

March 18, 2026

AKS