



2026:AHC:51109-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 964 of 2024

Union of India through General Manager and 3
others

.....Petitioner(s)

Versus

Sanjeev Kumar and another

.....Respondent(s)

Counsel for Petitioner(s) : Saumitra Singh

Counsel for Respondent(s) : Ashish Kumar Srivastava, Sunil

Chief Justice's Court

HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.

1. This petition is directed against order dated 13.10.2023 passed by Central Administrative Tribunal, Allahabad Bench, Allahabad whereby the Tribunal allowed the Original Application (OA) filed by the respondent no. 1 and quashed the orders dated 24.06.2021 and 09.09.2021 passed by the disciplinary authority and the appellate authority, respectively and the petitioners have been directed to reinstate him within fifteen days from the date of production of the certified copy of the order and give all consequential benefits like pay, allowances etc. within two months. Whereafter, the petitioners have been given liberty to conduct *denovo* enquiry in accordance with law after providing opportunity to the respondent.

2. The OA was filed against penalty order dated 24.06.2021 and appellate order dated 09.09.2021 whereby the respondent no. 1 was removed from service and the appeal filed by him has been dismissed by the appellate authority.

3. The OA was filed with the averments that the respondent was selected pursuant to the notification no. 01/2014 for the post of Assistant Loco

Pilot after his passing written examination and aptitude test. The appointment letter was issued on 18.05.2015 and the respondent rendered satisfactory service and was promoted to Senior Assistant Loco Pilot Level-IV on 09.08.2018.

4. Suddenly, on 03.09.2020 the respondent was issued a show cause notice with the proposal of lifetime debarment from RRB/RRC for Indian Railways. Reply was submitted by the respondent. He was placed under suspension by order dated 21.10.2020 and was served with a charge-sheet under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 ('Rule, 1968').

5. Reply to the charge-sheet was filed wherein the charges were denied. Enquiry Officer was appointed and enquiry commenced. Enquiry Officer submitted his enquiry report on 25.02.2021. On 26.04.2021, the respondent was removed from the service allegedly without serving a copy of the enquiry report and allowing him opportunity of representation under the Rules, 1968. The appeal preferred was dismissed. Feeling aggrieved, the OA was filed.

6. The Tribunal after hearing the parties, came to the conclusion that the respondent was removed from the service without supplying the relied upon documents and affording him opportunity to adduce evidence or cross-examine the witnesses. Further, the enquiry was not held in a fair manner.

7. Based on the observations and the findings recorded regarding violation of principle of natural justice, the OA was allowed and the directions, as noticed hereinbefore, were issued. Feeling aggrieved, the present writ petition has been filed.

8. Submission has been made that the Tribunal was not justified in ordering for reinstatement of the respondent and payment of consequential benefits like pay, allowances etc. and to the said extent the order impugned is bad.

9. Reliance has been placed on judgement in **The Inspector of Panchayats and District Collector, Salem v. S. Arichandran and**

others : AIR 2022 SC 4611.

10. Learned counsel for the respondent no. 1 supported the order impugned. Submission has been made that the plea sought to be raised regarding the order for reinstatement and consequential benefits, has no basis inasmuch as once the order imposing the punishment as well as the appellate order were set aside, the reinstatement is only consequential.

11. Further submission has been made that unless the respondent was reinstated the enquiry under the Rules, 1968, cannot be conducted and therefore, the plea raised in this regard has no basis. Submission has also been made that in identical circumstances pertaining to the same recruitment, Patna High Court, in Civil Writ Jurisdiction Case No. 7341 of 2024 (Amit Kumar and 16 others vs. Union of India and others and other several connected writ petitions) decided on 06.02.2025, wherein the OA was dismissed by the Tribunal at Patna, has reversed the said judgement and granted similar relief, which has been upheld by Hon'ble Supreme Court in Special Leave Petition (Civil) Diary No. 34374 of 2025 decided on 01.08.2025 whereby the SLP has been dismissed by way of a speaking order and therefore, the plea sought to be raised has no substance.

12. We have considered the submissions made by counsel for the parties and perused the material available on record.

13. The only challenge laid in the present writ petition pertains to the relief granted by the Tribunal, while quashing the order of punishment and appellate order, to the respondent, wherein while setting aside the order of the disciplinary authority and the appellate authority, reinstatement has been ordered with consequential benefits like pay, allowances etc.

14. The sheet anchor of the submissions made is judgement in the case of **The Inspector of Panchayats and District Collector, Salem (Supra)**, wherein based on judgement of Hon'ble Supreme Court in **State of U.P. and others v. Rajit Singh : 2022 SCC Online SC 341** and **Chairman, Life Insurance Corporation of India and others v. A. Masilamani : (2013) 6 SCC 530**, observations were made that the High Court ought to

have remitted the matter back to the disciplinary authority to conduct an enquiry from the point that it stood vitiated and that once the Court set aside the order of punishment on the ground that the enquiry was not properly conducted, the Court cannot reinstate the employee.

15. The said observations, which have been noticed by Hon'ble Supreme Court in the above judgements, are sought to be read out of context by counsel for the petitioners inasmuch as in the case before Hon'ble Supreme Court, learned Single Judge had directed reinstatement of the respondent therein - original writ petitioner in the service and payment of arrears to him. No direction was given for holding the re-enquiry from the stage that the enquiry stood vitiated. It is in that context, observations were made by Hon'ble Supreme Court, which read as under :

"6.2 Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand and as the order of dismissal has been set aside on the ground that the same was in breach of principles of Natural Justice, the High Court ought to have remitted the case concerned to the Disciplinary Authority to conduct the inquiry from the point that it stood vitiated and to conclude the same after furnishing a copy of the Inquiry Report to the delinquent and to give opportunity to the delinquent to submit his comments on the Inquiry Officer's Report.

7. In view of the above and for the reasons stated above, present appeal succeeds in part. The impugned judgment (s) and order (s) passed by the Division Bench as well as learned Single Judge of the High Court ordering reinstatement with back wages are hereby quashed and set aside. The case concerned is remitted to the Disciplinary Authority to conduct the inquiry from the point that it stood vitiated and to conclude the same after furnishing a copy of the Inquiry Officer's Report and after giving an opportunity to the delinquent to submit his comments on the Inquiry Officer's Report. The aforesaid exercise be completed within a period of six months from today. However, at the same time, considering the fact that earlier also the dismissal order was set aside on the ground that the same was found to be in breach of principles of Natural Justice and the matter was remitted back and thereafter again when the fresh order of dismissal has been passed, which is again found to be in violation of

principles of Natural Justice and again the matter is to be remitted back, we allow the present appeal with costs to be paid by the appellant to the respondent - delinquent quantified at Rs. 50,000/-, which shall be paid to the respondent - delinquent within a period of six weeks from today.

Present appeal is accordingly allowed to the aforesaid extent."

16. It would be seen that the Court categorically laid down that the High Court ought to have remitted the case concerned to the disciplinary authority to conduct the enquiry from the point that it stood vitiated and conclude the same after furnishing a copy of the inquiry report to the delinquent and give opportunity to the delinquent to submit his comments on the inquiry report and thereafter, pass order.

17. The plea raised that Hon'ble Supreme Court had observed that no reinstatement can take place, goes against the basic principles wherein under the Service Rules the inquiry can be conducted only against an employee and as a natural consequence of setting aside of an order of disciplinary authority and the appellate authority is that the employee get reinstated back in service and once the re-enquiry has been ordered, unless the reinstatement takes place, the re-enquiry cannot be conducted.

18. Similar is the situation in the case of **A. Masilamani (Supra)** wherein also while setting aside the order of punishment only reinstatement was ordered.

19. The Patna High Court in identical circumstances pertaining to the similar issue, has passed the following order while allowing the writ petition filed by similarly placed numerous applicants :

"7. On this count, the petitioners have made out a case so as to interfere with the CAT order dated 21.02.2024 as well as removal orders, accordingly, they are set aside.

8. The matter is remanded to the Disciplinary Authority to commence a fresh enquiry strictly adhering to the Rules, 1968, and complete the inquiry proceedings within a period of six months from the date of receipt of this order. Respective petitioners are hereby directed to co-operate in the disciplinary proceedings without seeking unnecessary adjournment

before the Inquiring Authority.

9. Disciplinary Authority is hereby directed to take the following decisions; the petitioners are to be reinstated or they have to be placed under suspension and further petitioners are entitled to subsistence allowance from the date of removal till completion of a fresh enquiry this has to be calculated and disbursed at the earliest and further insofar as regulating the intervening period from the date of reinstatement or suspension till passing a fresh order in fresh enquiry is required to be decided in accordance with the relevant provision of law as to whether petitioners are entitled to regularization of those period and it all depends on final order to be passed by the Disciplinary Authority in a fresh inquiry, ..."

20. Against the said order, when the Union of India approached the Hon'ble Supreme Court by filing SLP, following order was passed while dismissing the SLP :

"1. Delay condoned.

2. The impugned judgments and orders dated 06.02.2025 and 05.03.2025 of the High Court require the petitioners to conduct fresh enquiry in accordance with natural justice principles.

3. Mr. Brijendra Chahar, learned Additional Solicitor General, expresses a concern about back-wages if the respondents are to be taken back in service.

4. Obviously, the petitioners cannot be allowed to conduct an enquiry without taking back the respondents in service but for the limited purpose of concluding the same in accordance with law.

5. The High Court has been careful in recording that it is at the discretion of the petitioners as to how they would treat the respondents. The option of placing the respondents under suspension pending enquiry, is always open to the petitioners.

6. We find no reason to interfere; however, with the aforesaid observations, the special leave petitions are dismissed.

7. Pending application (s), if any, shall stand disposed of."

21. In the present case, the Tribunal while setting aside the order of punishment and the appellate order has granted reinstatement along with all consequential benefits like pay, allowances etc., while the Patna High Court had ordered in a different manner and left it open for the Department to take a view regarding treatment to be meted out to the employees post reinstatement.

22. We are of the opinion that the directions as given by the Patna High Court are balanced, instead of whole hog directions, which have been given by the Tribunal in the present case ordering for full consequential benefits like pay and allowances and reinstatement and the fact that the directions, as given by the Patna High Court, have been upheld by Hon'ble Supreme Court by way of a speaking order, the directions need to be modified.

23. Consequently, the writ petition is **partly allowed**. The order passed by the Tribunal is modified to the extent that the petitioners shall reinstate the respondent.

24. The disciplinary authority would be free to conduct a *denovo* enquiry strictly adhering to Rules, 1968 and complete the enquiry proceedings within a period of six months from the date of this Order.

25. The respondent is directed to co-operate in the disciplinary proceedings without seeking unnecessary adjournments before the enquiry authority. The disciplinary authority shall take decision on the aspect of the respondent's post reinstatement status either he can be reinstated or placed under suspension and pay subsistence allowance from the date of removal till completion of the fresh enquiry, which has to be calculated and disbursed at the earliest, further insofar as regulating the intervening period i.e. from the date of reinstatement or suspension till passing a fresh order in fresh enquiry, same shall be decided in accordance with provisions of law as to whether respondent is entitled to regularization of the period from removal till the passing of the final order by the disciplinary authority in the fresh enquiry.

26. The decision pertaining to the *denovo* enquiry shall be taken by the petitioners within a period of six weeks from today. In case no decision in this regard is taken during the said period, it shall be deemed that the petitioners do not intend to hold *denovo* enquiry. Further on initiation of the *denovo* enquiry, the amount of arrears of salary/subsistence allowance from the date of removal till date of reinstatement shall be paid latest within four weeks from the date the enquiry is initiated.

(Kshitij Shailendra, J) (Arun Bhansali, CJ)

March 12, 2026
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