

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.117 of 2022
In
Civil Writ Jurisdiction Case No.119 of 2020

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Alok Ranjan Son of Sri Giridhary Prasad Resident of Vishwalok,
Mangalasthan, Ramchandrapur, Bihar Sharif, P.O. - Bihar Sharif, District-
Nalanda.

... .. Appellant/s

Versus

1. The National Institute of Technology Patna through its Director.
2. The Director, National Institute of Technology, Patna.
3. The Registrar, National Institute of Technology, Patna.
4. Dr. Rajiv Sinha, Professor, Earth Science Department, IIT Kanpur (U.P.).

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Shekhar Singh, Sr. Adv. Mr. Sumit Kumar, Adv. Mr. Satyendra Rai, Adv.
For the Respondent/s	:	Mr. Y.V. Giri, Sr. Adv. Mr. Sanjay Kumar Giri, Adv. Mr. Mritunjay Harsh, Adv.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 01-05-2025

The appellant has assailed the order of learned
Single Judge dated 07.02.2022, passed in C.W.J.C. No.
119 of 2020.

2. The appellant was appointed as a Lecturer on
07.03.2006 with the respondent Institute. He was
pursuing Ph.D. course. On account of certain alleged
allegation, he was debarred in Ph.D. course, which was



subject matter of litigation in C.W.J.C. No. 19403 of 2016 and in which he had suffered an order. Simultaneously, departmental inquiry was initiated on 21.09.2015 while framing two charges, they are as under:-

“Article-I

That Mr. Alok Ranjan, Assistant Professor, Electrical Engineering Dept. and also registered for Doctoral Program(Ph.D.) in electrical Engineering bearing roll no. 135EE05 as part time candidate has been charged for committing gross misconduct and unfair practice as faculty and employee of the Institute by taking away one blank answer book of the mid semester examination - 2014 while he was on duty as invigilator in room no. CSE_CR_FF on 13.03.2014 which is not acceptable as an ethical and good moral behavior from a permanent faculty and employee of an Institute of National importance i.e. NIT Patna.



Article-II

That Mr. Alok Ranjan, Assistant Professor, Electrical Engineering Dept. has committed a gross misconduct and unfair practice that he used the same answer book for answering his own paper of Ph.D. course work in afternoon session of mid-semester examination for course EE750 power system protection on 13.03.2014 as an examinee (candidate) which he had unauthorizedly taken away from examination room in the forenoon session of mid-semester examination dated 13.03.2014 where he was deployed as an invigilator. Mr. Alok Ranjan brought this answer book pre written answers and submitted to the invigilator on 13.03.2014 in the afternoon session as if it was his bonafide answer book thus trying to cheat and intentionally committing a gross misconduct with malafide intention of wrongful gain.”



3. The appellant had demanded documents narrated in Annexure - III to the Charge Memo dated 21.09.2015 on 28.09.2015 and it was not provided by the disciplinary authority. Resultantly, he was compelled to file objections without an opportunity of perusal of the documents referred in Annexure - III, document no. 1 to 12, he had submitted objections on 01.10.2015. Thereafter, he had demanded once again furnishing of documents to be relied in the departmental inquiry on 07.10.2015 for which also there was no response from the Disciplinary Authority.

4. The Inquiring Officer concluded the inquiry on 11.10.2015 during the time at 10:30 A.M to 1:30 P.M. After taking note of 12 documents and examination of 4 witnesses and proceeded to prepare report insofar as proving the alleged charges and the report had been submitted to the disciplinary authority on 10.02.2016.

5. Disciplinary authority issued second show-cause notice along with Inquiring Officer's report on



28.11.2016. The appellant demanded once again certain documents on 26.04.2017 but the same was not provided. In this backdrop, disciplinary authority proceeded to have the opinion of CVC advice. On 05.08.2019 CVC gave its advice to the extent that it is a case of imposition of major penalty. In this backdrop, the appellant sought representation cited insofar as seeking opinion from the CVC to supply the same to the appellant and it was not supplied. In this backdrop, the disciplinary authority proceeded to impose penalty of removal from service on 15.10.2019 and it was approved of Board of Governors. Feeling aggrieved and dissatisfied with the removal order, appellant preferred C.W.J.C. No. 119 of 2020. The learned Single Judge dismissed the Writ Petition. Resultantly, the present L.P.A. is presented on behalf of the appellant.

6. Learned counsel for the appellant submitted that the learned Single Judge has not appreciated each of the contention urged and it has been culled out in para-



18. For non-compliance time and again requested documents have not made available to the appellant which are part and parcel of the disciplinary proceedings as is evident from the Annexure-III of the Charge Memo dated 21.09.2015. If the disciplinary authority is relying on the list of documents cited at Annexure-III to the Charge Memo dated 21.09.2015, in all fairness, he should have replied to the appellant's request for supply of documents from time to time by reasoned order. On the other hand, he has slept over the matter resulted in violation of principles of natural justice. It is further submitted that disciplinary authority appointed Inquiring Officer who is one of the Board of governing member by name Dr. Rajiv Sinha, who would be the next higher authority to the disciplinary authority. He has also participated in approving the removal order. In other words, he has acted as an Inquiring Officer as well as participated in approving the penalty order. It is further submitted that legal issues violated by the disciplinary



authority under Central Civil CCA Rules vitiate removal order. It is further submitted that Inquiring Officer has concluded the departmental inquiry on 11.10.2015 between 10:30 A.M. to 1:30 P.M. insofar as examining the twelve documents and four witnesses. In not providing the cited documents in Annexure-III to the Charge Memo and taking the same material for the purpose of proving the charges by the Presiding Officer and Inquiring Officer would result in violation of principles of natural justice. These are the issues which are not considered by the learned Single Judge. Hence, the order of the learned Single Judge is liable to be set aside. Resultantly removal order is to be set aside.

7. Per contra, learned counsel for the respondent resisted the aforementioned contentions and supported the order of the learned Single Judge. He has pointed out that the appellant's conduct is required to be taken into consideration with reference to the fact that he was debarred in Ph.D. course and it was subject matter of



litigation in C.W.J.C. No. 19403 of 2016 and it has been affirmed by the learned Single Judge. Almost identical charges are framed in the present disciplinary proceedings. Therefore, no interference is warranted. He has taken us through the various paragraphs of the learned Single Judge order particularly paras 9, 11, 29, 32 to the extent that documents have been provided to the appellant. No prejudice is caused insofar as appointment of Inquiring Officer, who is one of the Board members (BOG member), the same has been appreciated by the learned Single Judge. Hence, the present LPA is liable to be rejected.

8. Heard the learned counsel for the respective parties.

9. Undisputed facts are that appellant was subjected to disciplinary proceedings insofar as framing two charges narrated (*supra*) vide Charge Memo dated 21.09.2015. Perusal of the records, it is evident that as soon as Charge Memo was issued to the appellant, he had



demand list of documents vide Annexure-III to the Charge Memo dated 21.09.2105 on 28.09.2015. The same was not provided or it was rejected. Resultantly, appellant was compelled to file objection to the Charge Memo on 01.10.2015. Thereafter, on 07.10.2015, he had demanded supply of documents and the same was not provided. The appellant, in the absence of documents, was compelled to face departmental inquiry on 11.10.2015 and in a single day, the Inquiring Officer has concluded inquiry while taking note of document no. 1 to 12 and four witnesses statement has been recorded. He had submitted report on 10.02.2016. It is to be noted that even at the stage of furnishing reply to the Show-Cause notice, appellant had demanded supply of documents on 26.04.2017 for which also there is no response. The matter was referred to CVC advice. CVC advice is for imposition of major penalty. The CVC advice has been sought with reference to the appellant's representation and other related documents. CVC has



expressed that it is a case for imposition of major penalty. Thereafter, the disciplinary authority proceeded to impose a penalty of removal from service. The Inquiring Officer who was one of the BOG member who is biased and stated to have participated in the final order of removal on 15.10.2019 however it is disputed by the respondents. Para-18 of the learned Single Judge order reads as under:-

“18. The petitioner has challenged the aforesaid order on several counts, namely, (I) non-supply of documents demanded by him; (ii) the disciplinary proceeding having been concluded in hot haste; (iii) personal bias of the Enquiry Officer, namely, respondent No. 4, who was also a Member of Board of Governors in the NIT; and (iv) that the inquiry was held in pursuance to a Rule [Central Civil Services (Classification, Control and Appeal) Rules, Rule 14], which was not existent at the time of initiation of the departmental proceeding against him.”

10. The learned Single Judge has not appreciated



insofar as non-providing document nos. 1 to 12 vide Annexure III to Charge Memo dated 21.09.2015. On the other hand, in para 23 it is stated as under:-

“ 23. The petitioner was given the list of documents which were proposed to be used in the departmental proceeding which included the relevant answer-book deposited by him; the report of the invigilators and the finding of the Unfair Means Committee. The petitioner actually wanted those documents as also the Invigilators Duty Chart.”

There is no iota of material on what date, which are the documents supplied to the appellant among document nos. 1 to 12 are not reflected. Therefore, it is only apprehension that documents have been supplied to the appellant.

11. The scope of judicial review in a disciplinary



proceedings has been considered by Hon'ble Supreme Court in the following decisions:

(a). ***State of Karnataka & Anr. vs. Umesh***
reported in **(2022) 6 SCC 563;**

Para 22 reads as under:-

“22. In the exercise of judicial review, the Court does not act as an appellate forum over the findings of the disciplinary authority. The court does not reappreciate the evidence on the basis of which the finding of misconduct has been arrived at in the course of a disciplinary enquiry. The Court in the exercise of judicial review must restrict its review to determine whether:

(i) the rules of natural justice have been complied with;

(ii) the finding of misconduct is based on some evidence;

(iii) the statutory rules governing the conduct of the



disciplinary enquiry have been observed; and

(iv) whether the findings of the disciplinary authority suffer from perversity; and

(v) the penalty is disproportionate to the proven misconduct. [State of Karnataka v. N. Gangaraj, (2020) 3 SCC 423 : (2020) 1 SCC (L&S) 547; Union of India v. G. Ganayutham, (1997) 7 SCC 463 : 1997 SCC (L&S) 1806; B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749 : 1996 SCC (L&S) 80; R.S. Saini v. State of Punjab, (1999) 8 SCC 90 : 1999 SCC (L&S) 1424 and CISF v. Abrar Ali, (2017) 4 SCC 507 : (2018) 1 SCC (L&S) 310]

(b). ***Union of India and Others vs. P.***

Gunasekaran reported in **(2015) 2 SCC 610.**

Para 12 & 13 read as under:-



"12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

(a) the enquiry is held by a competent authority;

(b) the enquiry is held according to the procedure prescribed in that behalf;

(c) there is violation of the principles of natural justice in conducting the proceedings;



(d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;

(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;

(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;

(h) the disciplinary authority had erroneously admitted



inadmissible evidence which influenced the finding;

(i) the finding of fact is based on no evidence.

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

(i) reappreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based.



(vi) correct the error of fact
however grave it may appear
to be;

(vii) go into the proportionality
of punishment unless it shocks
its conscience.”

**(c) Kumaon Mandal Vikas Nigam Ltd. vs.
Girja Shankar;**

Para 22 reads as under:-

“22. The sixty-five page report
has been sent to the Managing Director of
the Nigam against the petitioner recording
therein that the charges against him stand
proved — what is the basis? Was the
enquiry officer justified in coming to such a
conclusion on the basis of the charge-sheet
only? The answer cannot possibly be in the
affirmative; if the records have been
considered, the immediate necessity would
be to consider as to who is the person who



has produced the same and the next issue could be as regards the nature of the records — unfortunately there is not a whisper in the rather longish report in that regard. Where is the presenting officer? Where is the notice fixing the date of hearing? Where is the list of witnesses? What has happened to the defence witnesses? All these questions arise but unfortunately no answer is to be found in the rather longish report. But if one does not have it — can it be termed to be in consonance with the concept of justice or the same tantamounts to a total miscarriage of justice. The High Court answers it as miscarriage of justice and we do lend our concurrence therewith. The whole issue has been dealt with in such a way that it cannot but be termed to be totally devoid of any justifiable reason and



in this context a decision of the King's Bench Division in the case of Denby (William) and Sons Ltd. v. Minister of Health [(1936) 1 KB 337 : 105 LJB 134 : 154 LT 180] may be considered. Swift, J. while dealing with the administrative duties of the Minister has the following to state:

“I do not think that it is right to say that the Minister of Health or any other officer of the State who has to administer an Act of Parliament is a judicial officer. He is an administrative officer, carrying out the duties of an administrative office, and administering the provisions of particular Acts of Parliament. From time to time, in the course of administrative duties, he has to perform acts which require him to interfere with the rights and property of individuals, and in doing that the courts have said that he must act fairly and reasonably; not capriciously, but in accordance with the ordinary dictates of justice. The performance of those duties entails the exercise of the Minister's discretion, and I think what was said by



Lord Halsbury in Sharp v. Wakefield [1891 AC 173 : 60 LJ MC 73 : 64 LT 180 (HL)] (AC at p. 179) is important to consider with reference to the exercise of such discretion. He there said:

‘ “Discretion” means when it is said that something is to be done within the discretion of the authorities that that something is to be done according to the rules of reason and justice, not according to private opinion: Rooke case [(1598) 5 Co Rep 99b, 100a] ; according to law, and not humour. It is to be, not arbitrary, vague, and fanciful, but legal and regular. And it must be exercised within the limit, to which an honest man competent to the discharge of his office ought to confine himself.’ ”

(d) U.O.I. and others. vs. Gyanchand

Chattar, reported in (2009) 12 SCC 78;

para 33 to 35 read as under:-

“ 33. In a case where the charge-sheet is accompanied with the statement of facts and the allegation may not be specific in charge-sheet but may be crystal clear



from the statement of charges, in such a situation as both constitute the same document, it may not be held that as the charge was not specific, definite and clear, the enquiry stood vitiated. (Vide State of A.P. v. S.Sree Rama Rao [AIR 1963 SC 1723] .) Thus, where a delinquent is served a charge-sheet without giving specific and definite charge and no statement of allegation is served along with the charge-sheet, the enquiry stands vitiated as having been conducted in violation of the principles of natural justice.

34. In Sawai Singh v. State of Rajasthan [(1986) 3 SCC 454 : 1986 SCC (L&S) 662 : AIR 1986 SC 995] this Court held that even in a domestic enquiry, the charge must be clear, definite and specific as it would be difficult for any delinquent to meet the vague charges. Evidence adduced should not be perfunctory even if the delinquent does not take the defence or



make a protest against that the charges are vague, that does not save the enquiry from being vitiated for the reason that there must be fair play in action, particularly, in respect of an order involving adverse or penal consequences.

35. In view of the above, law can be summarised that an enquiry is to be conducted against any person giving strict adherence to the statutory provisions and principles of natural justice. The charges should be specific, definite and giving details of the incident which formed the basis of charges. No enquiry can be sustained on vague charges. Enquiry has to be conducted fairly, objectively and not subjectively. Finding should not be perverse or unreasonable, nor the same should be based on conjectures and surmises. There is a distinction in proof and suspicion. Every act or omission on the part of the delinquent cannot be a misconduct. The authority must record reasons for arriving at the finding of fact in the context of the statute defining the misconduct.”



12. Taking note of the principles laid down in the
aforementioned decisions, Writ Court can interfere only if
there is any violation of principles of natural justice and
violation of any statutory provisions or regulation insofar
as commencement of a disciplinary proceedings and its
conclusion. In the present case, in not providing
document nos. 1 to 12 despite demanded on behalf of the
appellant from time to time at various stages like on
28.09.2015, 07.10.2015, 26.04.2017, 28.08.2019. Not
even iota of reply on behalf of the disciplinary authority
whether appellant is entitled to such of those documents
demanded by him or relevant for the purpose of
adjudicating the disciplinary proceedings or not? On the
other hand, disciplinary authority remained silent, results
in violation of principles of natural justice which is one of
the principles laid down by the Hon'ble Supreme Court in
the aforementioned decisions. The Hon'ble Supreme
Court in the case of **Central Organisation for Railway
Electrification v. M/s ECI SPIC SMO MCML (JV)**, a



joint venture company, reported in **(2024) SCC Online SC 3219** (para 76 to 78) elaborately considered issue relating to principles of natural justice and decision would assist appellant's case. At this juncture, it is necessary to reproduce Sub-Rule 4 of Rule 14 of CCS (CCA) Rules, 1965.

“ (4) (a) The Disciplinary Authority shall deliver or cause to be delivered to the Government servant a copy of the article of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article or charges is proposed to be sustained.

(b) On receipt of the articles of charge, the Government servant shall be required to submit his written statement of defence, if he so desires, and also state whether he desires to be heard in person, within a period of fifteen days, which may be further extended for a period not exceeding fifteen days at a time for reasons to be recorded in writing by the Disciplinary Authority or any other Authority authorized



by the Disciplinary Authority on his behalf;
Provided that under no circumstances, the extension of time for filing written statement of defence shall exceed forty-five days from the date of receipt of articles of charge. ”

[underline supplied]

The aforementioned provision mandates disciplinary authority to provide Charge Memo, statement of imputation, list of documents and list of witnesses. Therefore, the aforementioned statutory provisions has been violated, consequently, complete proceedings stands vitiated.

13. Inquiring Officer seems to be a superior authority to the disciplinary authority as is evident from the fact that the Inquiring Officer is one Dr. Rajiv Sinha, who is BOG Member and the respondents have not apprised this Court that Dr. Rajiv Sinha recused himself while approving the removal order dated 15.10.2019. In other words, we have to draw inference that he had



participated in approving the removal order dated 15.10.2019. In all fairness, he should have recused himself having regard to the fact that he was appointed as an Inquiring Officer and he had submitted report insofar as proving the charges to the Disciplinary Authority. It is not fair for an Inquiry Officer to participate in approving the penalty in a disciplinary proceeding. The Inquiry Officer's role is to conduct an impartial inquiry and provide findings, while disciplinary authority is responsible for deciding on the appropriate order of exoneration or imposition of penalty based on findings. These are all the legal issues which were required to be examined by the learned Single Judge and the same have not been examined, resultantly, there is an error on the face of the record. Further, merely the appellant was debarred in Ph.D. course and it has been affirmed by this Court in CWJC No. 19403 of 2016, the same cannot be taken into consideration. On the other hand, it is an extraneous material for the purpose of two charges narrated *supra*.



Disciplinary authority must have prejudiced his mind insofar as in debarring the appellant from the Ph.D. course and its affirmation in CWJC No. 19403 of 2016. It is to be noted that in the second show cause notice along with Inquiring Officer's report, disciplinary authority should have taken note of the material relating to cancellation of Ph.D. course and its affirmation by the learned Single Judge in C.W.J.C. No. 19403 of 2016. On the other hand, the same is not reflected in the second show cause notice. This issue will reveal that disciplinary authority is biased against the appellant insofar as imposition of penalty of removal from service.

14. Taking note of these factual and legal issues, the impugned order dated 15.10.2019, Annexure-14 to CWJC No. 119 of 2020, and the order dated 07.02.2022 passed by the learned Single Judge in CWJC No. 119 of 2020 are set aside.

15. Disciplinary Authority/Appointing Authority is hereby directed to reinstate the appellant and extend all



service and monetary benefits from time to time on par with his immediate junior. The above exercise shall be completed within a period of six months. Insofar as reinstating is concerned, the appellant shall be reinstated within a period of one month from today.

16. The present LPA No. 117 of 2022 stands allowed.

17. At this stage, learned Sr. counsel, Mr. Y.V. Giri, for the respondent submitted that in the light of the above order, the disciplinary proceedings be remanded to the Disciplinary Authority to commence the inquiry from the defective stage.

18. Having regard to the charges and the aforementioned submission on behalf of the respondent, we are of the view that the matter requires to be remanded to the disciplinary authority to commence the inquiry from the defective stage in the light of Hon'ble Supreme Court decisions in the case of **Managing Director, ECIL, Hyderabad vs. B. Karunakar,**



reported in **[(1993) 4 SCC 727]** read with **Chairman-cum-Managing Director, Coal India Ltd. & Ors. v. Ananta Saha & Ors, reported in (2011) 5 SCC 142.**

19. The disciplinary authority shall commence inquiry after providing documents mentioned in Annexure III to the charge memo dated 21.09.2015. Thereafter, the Appellant has to furnish his reply to the charge memo afresh. Further, the disciplinary authority is hereby directed to proceed afresh from the aforementioned defective stage and conclude the disciplinary proceedings strictly adhering to the relevant CCS (CCA) Rules, 1965, within a period of six months from the date of receipt of this order. The disciplinary authority is hereby directed to take note of the aforementioned principles laid down by the Hon'ble Supreme Court insofar as disciplinary proceedings to the extent that there should not be any violation of statutory provision of law and denial of principle of natural justice. In this regard, appellant is requested to cooperate in the matter. If the inquiry is not



completed within a period of six months from today, in
that event it is deemed that disciplinary proceedings
stands terminated.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

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CAV DATE	NA
Uploading Date	09.05.2025
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