



2026:CGHC:10376

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4286 of 2020

1 - Sukalu Ram Purena S/o Daharu Aged About 50 Years, Constable No.255, R/o Police Line, Mohan Nagar, Durg, Chhattisgarh.

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through The Secretary Department Of Home, Mahanadi Bhawan, Mantralaya, Post And Police Station Mandir Hasaud, Raipur, Chhattisgarh,

2 - Director General Of Police Chhattisgarh Police Headquarters, Atal Nagar, Raipur, Chhattisgarh,

3 - Inspector General Of Police Durg Region, 32 Bunglow, Bhilai District Durg, Chhattisgarh,

4 - Superintendent Of Police Durg, Chhattisgarh,

... Respondent(s)

For Petitioner(s) : Shri Varun Sharma, Advocate.

For Respondent(s) : Shri Sharad Mishra, Panel Lawyer.

(Single Bench)

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

27/02/2026 :



1. The petitioner is aggrieved by the order dated 29.4.2019 passed by respondent No.2 i.e. the Director General of Police, Police Headquarter Raipur whereby the mercy appeal preferred by him against the order dated 30.12.2017 passed by the Inspector General of Police, Durg Range dismissing the original Appeal preferred by the petitioner, which, in turn, was preferred against the order passed by the Superintendent of Police, Durg dated 19.12.2002 whereby major punishment of Compulsory Retirement was imposed upon the petitioner, has been dismissed.
2. This is the second round of litigation. Earlier, this Court in WP No.4202/2005 had quashed the impugned order dated 29.4.2003 and the order passed by the Director General of Police deciding the mercy appeal was also quashed and the matter was remitted to the appellate authority for hearing and disposal. Thereafter, the Appeal preferred by the petitioner was dismissed by the Inspector General of Police, Durg Range vide order dated 30.12.2017 and the mercy appeal preferred by the petitioner was also dismissed vide order dated 29.4.2019. Hence, this petition.
3. Learned counsel for the petitioner would submit that the disciplinary authority i.e. the Superintendent of Police disagreed with the finding recorded by the enquiry officer without assigning any reason, which is in violation of Rule 15 (2) of the Chhattisgarh



Civil Services (Classification, Control & Appeal) Rules, 1966 (for short 'the Rules, 1966') and, therefore, the impugned orders are liable to be set aside. Learned counsel for the petitioner would rely upon the decision rendered by this Court in the matter of **A.K. Shrivastava Vs. Indira Gandhi Krishi Vishwavidyalaya & Others** {2017 SCC OnLine Chh 969}.

4. On the other hand, learned State Counsel would support the impugned orders.
5. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.
6. Admittedly, on 30.10.2002, the Enquiry Officer after due enquiry submitted report that all the charges levelled against the petitioner were not found proved, however, the disciplinary authority i.e. the Superintendent of Police, Durg, vide order dated 19.12.2002 disagreeing with the findings recorded by the Enquiry Officer and without assigning any reason and without affording any opportunity of hearing to the petitioner passed the order of compulsory retirement of the petitioner.
7. It is not in dispute that for carrying-out the said departmental enquiry, the procedure envisaged in the Rules of 1966 are applicable in which Rule 15(2) provides for the procedure and further action to



be taken if the disciplinary authority disagrees with the findings of the Enquiry Officer. Rule 15(2) of the Rules, 1966 states as follows:

“Rule 15(2) - Further action if Disciplinary Authority if disagrees with the findings of Enquiry Authority.

(2) The Disciplinary authority shall, if it disagrees with the findings of the Inquiring Authority on any article of charge, record its reasons for the such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.”

8. A focused glance of the aforesaid Rule would show that in the event the disciplinary authority disagrees with the findings of the Enquiry Officer, he has to record its separate reasons for such disagreement and he is also obliged to record its own findings pertaining to such charge and in that case the principles of natural justice have to be complied with by communicating the reasons of disagreement to the delinquent employee, and after reply is filed, the disciplinary authority has to record its own findings on all such charges on which the Enquiry Officer has assigned its reasons and in order to record punishment, such a procedure is imperative.
9. The point is no longer res integra and the Supreme Court in the matter of **Yoginath D. Bagde v. State of Maharashtra**¹ has considered the issue and also considered the earlier decisions of the Supreme Court in the matters of **Punjab National Bank v. Kunj**

¹ (1999) 7 SCC 739

**Behari Misra² and State of Assam v. Bimal Kumar Pandit³**

holding as under in paragraphs 29, 30, 31 and 34:—

“29. ... But the requirement of “hearing” in consonance with the principles of natural justice even at that stage has to be read into Rule 9(2) and it has to be held that before the disciplinary authority finally disagrees with the findings of the enquiring authority, it would give an opportunity of hearing to the delinquent officer so that he may have the opportunity to indicate that the findings recorded by the enquiring authority do not suffer from any error and that there was no occasion to take a different view. The disciplinary authority, at the same time, has to communicate to the delinquent officer the “TENTATIVE” reasons for disagreeing with the findings of the enquiring authority so that the delinquent officer may further indicate that the reasons on the basis of which the disciplinary authority proposes to disagree with the findings recorded by the enquiring authority are not germane and the finding of “not guilty” already recorded by the enquiring authority was not liable to be interfered with.

30. Recently, a three-Judge Bench of this Court in Punjab National Bank v. Kunj Behari Mishra (supra) relying upon the earlier decisions of this Court in State of Assam v. Bimal Kumar Pandit (supra), *Institute of Chartered Accountants of India v. L.K. Ratna*⁴ as also the Constitution Bench decision in *Managing Director, ECIL v. B. Karunakar*⁵ and the decision in Ram Kishan v. Union of India⁶ has held that : (SCC p. 96, para 17)

“It will not stand to reason that when the finding in favour of the delinquent officers is proposed to be overturned by the disciplinary authority then no opportunity should be granted. The first stage of the enquiry is not completed till the disciplinary authority has recorded its findings. The principles of natural justice would demand that the authority which proposes to decide against the

2 (1998) 7 SCC 84

3 AIR 1963 SC 1612

4 (1986) 4 SCC 537

5 (1993) 4 SCC 727

6 (1995) 6 SCC 157



delinquent officer must give him a hearing. When the enquiring officer holds the charges to be proved, then that report has to be given to the delinquent officer who can make a representation before the disciplinary authority takes further action which may be prejudicial to the delinquent officer. When, like in the present case, the enquiry report is in favour of the delinquent officer but the disciplinary authority proposes to differ with such conclusions, then that authority which is deciding against the delinquent officer must give him an opportunity of being heard for otherwise he would be condemned unheard. In departmental proceedings, what is of ultimate importance is the finding of the disciplinary authority.”

The Court further observed as under : (SCC p. 96, para 18)

“When the enquiry is conducted by the enquiry officer, his report is not final or conclusive and the disciplinary proceedings do not stand concluded. The disciplinary proceedings stand concluded with the decision of the disciplinary authority. It is the disciplinary authority which can impose the penalty and not the enquiry officer. Where the disciplinary authority itself holds an enquiry, an opportunity of hearing has to be granted by him. When the disciplinary authority differs with the view of the enquiry officer and proposes to come to a different conclusion, there is no reason as to why an opportunity of hearing should not be granted. It will be most unfair and iniquitous that where the charged officers succeed before the enquiry officer, they are deprived of representing to the disciplinary authority before that authority differs with the enquiry officer's report and, while recording a finding of guilt, imposes punishment on the officer. In our opinion, in any such situation, the charged officer must have an opportunity to represent before the disciplinary authority before final findings on the charges are recorded and punishment imposed.”

The Court further held that the contrary view expressed by this Court in *State Bank of India v.*



*S.S. Koshal*⁷ and *State of Rajasthan v. M.C. Saxena*⁸ was not correct.

31. In view of the above, a delinquent employee has the right of hearing not only during the enquiry proceedings conducted by the enquiry officer into the charges levelled against him but also at the stage at which those findings are considered by the disciplinary authority and the latter, namely, the disciplinary authority forms a tentative opinion that it does not agree with the findings recorded by the enquiry officer. If the findings recorded by the enquiry officer are in favour of the delinquent and it has been held that the charges are not proved, it is all the more necessary to give an opportunity of hearing to the delinquent employee before reversing those findings. The formation of opinion should be tentative and not final. It is at this stage that the delinquent employee should be given an opportunity of hearing after he is informed of the reasons on the basis of which the disciplinary authority has proposed to disagree with the findings of the enquiry officer. This is in consonance with the requirement of Article 311(2) of the Constitution as it provides that a person shall not be dismissed or removed or reduced in rank except after an enquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. So long as a final decision is not taken in the matter, the enquiry shall be deemed to be pending. Mere submission of findings to the disciplinary authority does not bring about the closure of the enquiry proceedings. The enquiry proceedings would come to an end only when the findings have been considered by the disciplinary authority and the charges are either held to be not proved or found to be proved and in that event punishment is inflicted upon the delinquent. That being so, the “right to be heard” would be available to the delinquent up to the final stage. This right being a constitutional right of the employee cannot be taken away by any legislative enactment or service rule including rules made under Article 309 of the Constitution.

⁷ 1994 Supp (2) SCC 468

⁸ (1998) 3 SCC 385



34. Along with the show-cause notice, a copy of the findings recorded by the enquiry officer as also the reasons recorded by the Disciplinary Committee for disagreeing with those findings were communicated to the appellant but it was immaterial as he was required to show cause only against the punishment proposed by the Disciplinary Committee which had already taken a final decision that the charges against the appellant were proved. It was not indicated to him that the Disciplinary Committee had come only to a “tentative” decision and that he could show cause against that too. It was for this reason that the reply submitted by the appellant failed to find favour with the Disciplinary Committee.”

10. The aforesaid decision has been followed by the Supreme Court in the matter of **Lav Nigam v. Chairman & MD, ITI Ltd.**⁹ and in paragraphs 10 and 13, Their Lordships of the Supreme Court held thus:

“10. The conclusion of the High Court was contrary to the consistent view taken by this Court that in case the disciplinary authority differs with the view taken by the inquiry officer, he is bound to give a notice setting out his tentative conclusions to the appellant. It is only after hearing the appellant that the disciplinary authority would at all arrive at a final finding of guilt. Thereafter, the employee would again have to be served with a notice relating to the punishment proposed.

13. We have already quoted the extracts from the show-cause notice issued by the disciplinary authority. It is clear that no notice at all was given before the disciplinary authority recorded its final conclusions differing with the finding of fact of the inquiry officer. The notice to show cause was merely a show-cause against the proposed punishment. In view of the long line of authorities, the decision of the High Court cannot be sustained.

9 (2006) 9 SCC 440



The appeal is accordingly allowed and the decision of the High Court is set aside.”

11. The decision rendered by the Supreme Court in Kunj Behari Misra's case (supra) has been followed by Their Lordships of the Supreme Court with approval in the matters of **Punjab National Bank v. K.K. Verma**¹⁰, **S.P. Malhotra v. Punjab National Bank**¹¹ and **Pawan Kumar Agarwala v. General Manager-II and Appointing Authority, State Bank of India**¹².
12. Applying the principles of law laid down by the Hon'ble Supreme Court in the aforesaid cases to the facts of the present case, it is clear that the disciplinary authority vide order dated 19.12.2002 has only recorded disagreement with the findings recorded by the enquiry officer and has not recorded any independent finding which was sine qua non under Rule 15 (2) of the Rules, 1966. As such, there are no separate reasons recorded by the disciplinary authority and it is a case of total non-compliance of Rule 15 (2) of the Rules, 1966.
13. Therefore, the impugned order of punishment dated 19.12.2002 passed by the Superintendent of Police, Durg as also the order passed by the appellate authority i.e. Inspector General of Police, Durg dated 30.12.2017 and the order dated 29.4.2019 passed by the Director General of Police, dismissing the mercy appeal of the petitioner are quashed.

10 (2010) 13 SCC 494

11 (2013) 7 SCC 251

12 (2015) 15 SCC 184



14. The matter is remitted to the disciplinary authority i.e. the Superintendent of Police, Durg for issuing fresh show cause notice along with reasons for disagreement and after filing reply by the petitioner herein, the said authority will take final decision recording its own findings on the charges within a period of 45 days from the date of receipt of a copy of this order, strictly in accordance with law.
15. The Writ Petition is allowed to the extent indicated above. No costs.

Sd/-
(Sanjay K. Agrawal)
Judge

Barve