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Seraikella-Kharsawan to conduct a detail enquiry, as per the rule but to order of punishment is not interfered with, which is wholly arbitrary unjust & unsustainable in the eye of law:

- (iii) *For issuance of an appropriate writ (s) / order(s) / direction(s), or a Writ in the nature of Mandamus, commanding upon and directing the respondents to pay the consequential benefits on event of the quashing of the above punishment order.*

3. Briefly stated, the petitioner was an Assistant Teacher and was given the charge of In-charge Headmaster in the Upgraded Middle School, Gangudih, within the Chandil Block, Seraikella-Kharsawan district. One Letter dated 25.08.2021, has been written by the Headmistress, S.S⁺² High School, Seraikella-Kharsawan, addressed to Block Education Extension Officer, Chandil, with regard to verification of the Transfer Certificate of Tarana Parwin, being Certificate No. 76 and Jeenat Parwin being Certificate No. 77 dated 02.06.2021. Pursuant to the above letter the Block Education Extension Officer vide Memo No. 340 dated 27.08.2021 directed the petitioner, who was the In-charge Headmaster of the Upgraded Middle School, Gangudih and called for the Admission Register. The petitioner reported on 31.08.2021 that the Sl. No. 76 & 77 has never been issued by the Office of the School, the last Serial Number of the certificate, which is issued is only 59 and accordingly requested to lodge the F.I.R. against the beneficiary, who has produced the said certificate. The petitioner again replied vide its Letter dated 02.09.2021 that the certificate produced by the beneficiary is false & fabricated and therefore requested for lodging F.I.R. against the said person.

4. Thereafter, vide Memo No. 347 dated 02.09.2021, the Block Education Extension Officer, Chandil has reported the District Superintendent Education, Seraikella-Kharsawan that

Transfer Certificate produced by the beneficiary and which has been asked for verification by the Headmistress S.S⁺² High School is forged and fabricated and accordingly requested to take action against the In-charge Headmaster i.e. the petitioner.

5. Vide Memo No. 1224 dated 04.09.2021, the District Superintendent of Education, Seraikella-Kharsawan directed the Block Education Extension Officer, Gamharia to enquire about the matter and submit a report, after detail enquiry, within two days.

6. Thereafter, the petitioner vide its Letter dated 02.12.2021 given his explanation to the Block Education Extension Officer, Chandil, Seraikella that the Transfer certificate to Tarana Parwin & Jeenat Parwin has never been issued by his school under his seal & signature and accordingly requested to lodge an F.I.R. against the real culprit. The Block Education Extension Officer, Gamharia – 1 vide its Letter No. 644 dated 24.11.2021 submitted his Enquiry Report and its specific defence has been incorporated that the petitioner never issued those certificates and the same are not in the seal & signature of the petitioner.

7. After the reply by the petitioner, the B.E.E.O., Hatgamaharia – 1, prepared an Enquiry Report and the Enquiry Officer, Block Education Extension Officer, Gamharia – 1, casted doubt only on the basis of assumption & presumption that since the petitioner is In-charge Headmaster, the original record of the school could not be tampered and therefore, the involvement of the petitioner cannot be overruled. The erstwhile Headmaster

Sukul Manjhi, who is now retired, has also disclosed that the false certificate has been issued in the short signature of Sukul Manjhi.

8. One Para Teacher Sri Man Govind Singh Sardar of the said school having not good relation with the In-charge Headmaster i.e. the petitioner, as because he is absent from the school from 01.07.2019 and till date he has not been allowed and accepted to join the school by the petitioner, as because he is unauthorized absent from the school. The said Para Teacher has made several attempts to join the school and ultimately, the Block Education Extension Officer, Chandil also tried his best to allow him to join by adopting illegal means but ultimately not succeeded. This might be the reason of entire episode of implicating the petitioner for no offence and/or mis conduct.

9. Being satisfied with the Enquiry Report as submitted by the B.E.E.O., Gamharia – 1, the District Superintendent of Education, Seraikella-Kharsawan vide its Letter No. 123 dated 25.01.2022 suspended the petitioner and vide Letter No. 40 dated 31.01.2022 directed the petitioner to handover the charge of the school to Smt. Kokila Manjhi.

10. Thereafter, vide Letter dated 19.02.2022 the area Education Officer has directed the petitioner to be present on 21.02.2022 at 11.00 A.M. to co-operate with the investigation. Again, vide Letter No. 28 dated 20.06.2022 the petitioner has been directed to provide the evidences on the allegations, which is against the petitioner. The petitioner appeared and vide its Letter dated 27.06.2022 given detail representation and also replied

point-wise allegation and denied the charges leveled against the petitioner.

11. Being dissatisfied with the reply given by the petitioner, the petitioner has been given another Show-cause No. 959 dated 25.07.2022 to give his explanation, as the petitioner was found to be guilty under Rule 3(i)(ii) & (iii) of the Government Servant Conduct, Rules, 1973. In compliance of the said letter, the petitioner again filed his detailed representation on 27.07.2022, denying the allegation leveled against him.

12. None of the documents has been provided to the petitioner and ultimately the petitioner asked for the certain information and the documents, under Right to Information Act that whether the false signature has been verified by the competent authority and also with regard to the reminder of the school but same has been replied that no false signature has been verified by the expert and without considering the case of the petitioner and defence of the petitioner, the District Superintendent of Education, Seraikella-Kharsawan vide Memo No. 1059 dated 04.08.2022 passed Order of Punishment to stop one increment with cumulative effect and further not to pay the salary for the suspension period.

13. Being aggrieved with the order passed by the D.S.E., the petitioner preferred appeal being Service Appeal No. 33/2022 before the Commissioner, Kolhan Division, West Singhbhum at Chaibasa on 15.09.2022. The petitioner has also filed representation dated 15.09.2022 to the Commissioner, Kolhan

Division on the same date, for the enquiry and action against the authority and their conduct, for which the petitioner is being penalized. Service Appeal No. 33/2022 was finally heard and vide Memo No. 101 dated 20.01.2023, the same was rejected; though, the Commissioner has directed for detailed enquiry, but the punishment which has been inflicted upon the petitioner, has not been interfered with.

14. The only contention of learned counsel for the petitioner by pointing out the inquiry report which is annexed as Annexure-A series (page 23-25), is that no oral witness has been examined in this case in order to prove the charge and now, it is a settled principle of law that save and except any document which is kept in ordinary course of business, the inquiry officer has to take oral evidence in order to prove the charge against the delinquent and he should not become departmental representative.

15. Learned counsel for the petitioner submits that the issue has been decided right from the judgment of **Roop Singh Negi vs. Punjab National Bank**¹ followed by **State of Uttar Pradesh vs. Saroj Kumar Sinha**² and then in the case of **Satyendra Singh Vs. State of Uttar Pradesh and Another**³ deciding the same principle that any charge is to be proved by oral evidence. Recently, also in the case of **Jai Prakash Saini vs.**

¹ (2009) 2 SCC 570

² (2010) 2 SCC 772

³ 2024 SCC OnLine SC 3325

Managing Director, U.P. Cooperative Federation Ltd.⁴ the same issue has been deliberated.

16. Learned counsel for the respondents, though opposed the prayer of the petitioner and defended the impugned order of punishment, however, he could not demonstrate by any of the document in the counter affidavit that oral evidence has been laid on behalf of the department and also the document which has been relied by the Inquiry Officer is kept in the ordinary course of business.

17. Having heard learned counsel for the parties and after going through the documents available on record and also the inquiry report, it transpires that neither there is any reference of any presenting officer; nor there is a reference of list of witness.

18. From bare perusal of the impugned order, it appears that the Inquiry Officer himself has become the authority and submitted a report recommending punishment. At this stage, it is pertinent to mention here; it is not the quantum of punishment but it is the procedure which has to be followed in the case of the departmental proceeding. The Hon'ble Apex Court in the catena of judgments right from the celebrated judgment of **Roop Singh Negi** (*supra*) then in the case of **Saroj Kumar Sinha** (*supra*) has dealt the importance of Inquiry Officer and oral evidence.

19. Recently also, in the case of **Ram Prakash Singh** (*supra*) and also in the case of **Jai Prakash Saini** (*supra*), the same issue has been re-deliberated.

⁴ 2026 SCC OnLine SC 505

20. In the case of **Ram Prakash Singh** (*supra*) there is an observation of the Hon'ble Apex Court that since the judgment of **Saroj Kumar Sinha** (*supra*), still the departments are committing the same mistake which is observed at para 16 of the said judgment. For brevity the relevant paragraphs of the aforesaid judgment passed by the Hon'ble Apex Court is extracted hereinbelow:

“13. In Roop Singh Negi v. Punjab National Bank, it was held that an officer conducting an enquiry has a duty to arrive at findings in respect of the charges upon taking into consideration the materials brought on record by the parties. It has also been held therein that any evidence collected during investigation by an investigating officer against the accused by itself could not be treated to be evidence in the disciplinary proceedings.

14. What follows from a conjoint reading of the above two decisions is and what applies here is that, 'materials brought on record by the parties' (to which consideration in the enquiry ought to be confined) mean only such materials can be considered which are brought on record in a manner known to law. Such materials can then be considered legal evidence, which can be acted upon. Though the Indian Evidence Act, 1872 is not strictly applicable to departmental enquiries, which are not judicial proceedings, nevertheless, the principles flowing therefrom can be applied in specific cases. Evidence tendered by witnesses must be recorded in the presence of the delinquent employee, he should be given opportunity to cross-examine the witnesses and no document should be relied on by the prosecution without giving copy thereof to the delinquent - all these basic principles of fair play have their root in such Act. In such light, the documents referred to in the list of documents forming part of the annexures to the chargesheet, on which the department seeks to rely in the enquiry, cannot be treated as legal evidence worthy of forming the basis for a finding of guilt if the contents of such documents are not spoken to by persons competent to speak about them. A document does not prove itself. In the enquiry, therefore, the contents of the relied-on documents have to be proved by examining a witness having knowledge of the contents of such document and who can depose as regards its authenticity. In the present case, no such exercise was undertaken by producing any witness.

15. We may further refer to the decision of this Court in State of Uttar Pradesh v. Saroj Kumar Sinha¹⁷ where disciplinary proceedings were drawn up against the respondent, Saroj Kumar Sinha, under the 1999 Rules itself with which we are concerned. Paragraphs 26 to 30 and 33 of the said decision being relevant are quoted below:

“26. The first inquiry report is vitiated also on the ground that the inquiry officers failed to fix any date for the appearance of the respondent to answer the charges. Rule 7(x) clearly provides as under:

‘7. (x) Where the charged government servant does not appear on the date fixed in the inquiry or at any stage of the proceeding in spite 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.’

27. A bare perusal of the aforesaid sub-rule shows that when the respondent had failed to submit the explanation to the charge-sheet it was incumbent upon the inquiry officer to fix a date for his appearance in the inquiry. It is only in a case when the government servant despite notice of the date fixed failed to appear that the inquiry officer can proceed with the inquiry ex parte. Even in such circumstances it is incumbent on the inquiry officer to record the statement of witnesses mentioned in the charge-sheet. Since the government servant is absent, he would clearly lose the benefit of cross-examination of the witnesses. But nonetheless in order to establish the charges the Department is required to produce the necessary evidence before the inquiry officer. This is so as to avoid the charge that the inquiry officer has acted as a prosecutor as well as a judge.

28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/ Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the un rebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.

29. Apart from the above, by virtue of Article 311(2) of the Constitution of India the departmental enquiry had to be conducted in accordance with the rules of natural justice. It is a basic requirement of the rules of natural justice that an employee be given a reasonable opportunity of being heard in any proceedings which may culminate in punishment being imposed on the employee.

30. When a departmental enquiry is conducted against the government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The inquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate in imposition

of punishment including dismissal/removal from service.

33. As noticed earlier in the present case not only the respondent has been denied access to documents sought to be relied upon against him, but he has been condemned unheard as the inquiry officer failed to fix any date for conduct of the enquiry. In other words, not a single witness has been examined in support of the charges levelled against the respondent. The High Court, therefore, has rightly observed that the entire proceedings are vitiated having been conducted in complete violation of the principles of natural justice and total disregard of fair play. The respondent never had any opportunity at any stage of the proceedings to offer an explanation against the allegations made in the charge-sheet.”

(emphasis ours)

16. It appears that the appellant is yet to take lessons despite the admonition in Saroj Kumar Sinha (supra). The same kind of omissions and commissions that led to setting aside of the order of punishment imposed being upheld by this Court were repeated in the present case.” (emphasis supplied)

21. Having regard to the aforesaid discussion, the impugned orders dated 04.08.2022 (Annexure-16) and 20.01.2023 (Annexure-19), are hereby, quashed and set aside.

22. Since the petitioner has already retired; as such, giving liberty to the respondents to continue the proceeding from the initial stage will further distress the petitioner; as such, instead of remitting the case, this Court direct the respondents to calculate the amount which has not been paid to the petitioner pursuant to the impugned order, which has already been quashed, within a period of 12 weeks from the date of receipt of copy of this order.

23. Accordingly, the instant writ application stands allowed. Pending I.A., if any, also stands closed.

(Deepak Roshan, J.)

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