

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 13906/2024

- 1. Union Of India, Through Its Secretary To The Government Of India, Department Of Posts, Ministry Of Communication And Information Technology Dak Bhavan New Delhi-110001.
- 2. Chief Post Master General, Rajasthan Circle, Jaipur-302007.
- 3. Director Postal Services, Western Region, Jodhpur (Rajasthan) - 342001.
- 4. Superintendent Of Post Offices, Jhunjhunu Postal Division, Jhunjhunu-333001.

----Petitioners

Versus

Kanhiya Lal Morya Son Of Shri Mali Ram Morya, Aged About 56 Years, Resident Of Ward No. 23, Raigar Mohalla, Nawalgarh District Jhunjhunu And Last Employed As Sub Postmaster Parasrampura, Nawalgarh, District Jhunjhunu.

----Respondent

For Petitioner(s)	:	Mr. V.P. Mathur
For Respondent(s)	:	Mr. Chandra Bhan Sharma

HON'BLE MR. JUSTICE INDERJEET SINGH
HON'BLE MR. JUSTICE RAVI CHIRANIA

Order

10/02/2026

1. This writ petition has been filed by the petitioners (hereinafter to be referred as 'department') against the order dated 31.05.2024 passed by the Central Administrative Tribunal (hereinafter to be referred as 'tribunal') by which the tribunal has partly allowed the original application filed on behalf of the respondent (hereinafter to be referred as 'employee') and

remanded the matter back to the disciplinary authority for conducting the fresh enquiry by another person from the stage of the circulation of enquiry report to the employee.

2. Counsel for the department submits that once the tribunal has reached to a conclusion that there is no procedural irregularity in conducting the departmental enquiry, then there was no occasion for the Tribunal to remand the matter back to the disciplinary authority for conducting the enquiry by the person other than the enquiry officer. Counsel further submits that as per Rule 50 of the P & T Manual Vol.-III the preliminary enquiry and regular enquiry can be conducted by the same person and prayed for allowing the writ petition.

3. Counsel for the employee opposed the submissions made by counsel for the department and supported the judgment passed by the learned tribunal.

4. We have heard counsel for the parties and perused the record.

5. The tribunal while considering the matter (Original Application No.114/2015) passed the following order :-

"12. In respect of the third contention as to whether the incumbent DA could have conducted the disciplinary proceedings, the Applicant/CO had submitted that Rule 50 of P&T Manual Vol.-III provided as under:

"50 The authority who conducts the preliminary enquiry into a case of misconduct etc. of a Government servant will not be debarred from functioning as a disciplinary authority in the same case provided it has not openly given out its findings about the guilt of the accused official."

It was thus the position of the Applicant/CO Although the above said provision was for preliminary enquiry, the stage of regular Inquiry was a subsequent and more serious/important stage. Thus, it was averred that Shri Santosh Kumar Sharma, the appointed IO who had completed the Inquiry and submitted the Inquiry Report after proving all the charges, cannot act as DA further and impose punishment upon the Applicant/CO based on the same Inquiry Report. On the other hand, the Respondents submitted in this regard that as per Rule 51 of the P&T Manual Vol.-III, the prescribed appointing or disciplinary authority is unable to function as the disciplinary authority in respect of an official on account of his being personally concerned with the charges or being a material witness in support of the charge. It was further submitted that in the present case Shri Santosh Kumar Sharma was not personally concerned with the charge nor was he a material witness in support of the charge. Hence, there was no bar to him act as the DA to decide the case in which he himself previously was the IO. The respondents have also cited in support the decision taken in the Government of India, M/o Home affairs file No.7/29/61- Ests.(A) which reads as under:

"(4) When the Competent Authority is unable to function as the Disciplinary Authority- Where the officer who is the prescribed Disciplinary Authority is/will be the complainant and/or the witness in a disciplinary proceeding, another officer should be specified as Disciplinary Authority by a special order of the President under Rule 14(2) of the CCS (CCA) Rules, 1957 [corresponding to Rule 12 (2) of 1965 Rules]."

13. Moreover, this matter is found to be covered under the OM No. 35014/1/76-Estt. (A) dated 29.07.1976 of the DOP&T vide the relevant Para-3 thereof, it had been provided that :

According to Rule 14(5) of the CCS (CCA) Rules, 1965, the disciplinary authority may itself inquire into the charges against the accused Government servant or appoint an Inquiry officer for the purpose. However, it should be possible in a majority of cases, and the more serious ones at any rate, to ensure that the disciplinary authority himself does not conduct the inquiry. It may still be not

practicable to ensure in all cases that the disciplinary authority himself would not be the Inquiry Officer. Such a course may be necessary under certain circumstances particularly in small field formations where the disciplinary authority as well as the Inquiry officer may have to be one and the same person. It has accordingly been decided that unless it is unavoidable in certain cases as mentioned above, the disciplinary authority should refrain from being the Inquiry Officer and appoint another officer for the purpose.

It is noted that the aforesaid guidelines / Rule provisions are envisaged in the situation at the point of appointment of the Inquiry Officer, when such a choice was possible to be made - and had indeed been made even in the present case by assigning the Inquiry to ASPO, Jhunjhunu. However, the same officer had later got posted as the Superintendent of Post Offices, Jhunjhunu Division, which was the prescribed Disciplinary Authority inter alia for this case also. Nonetheless, the ratio of the aforesaid guidelines/ Rule provisions is that an incumbent Disciplinary Authority other than the Inquiry Officer is needed to independently appreciate and evaluate the findings in the Inquiry Report to arrive at a suitable conclusion upon the punishment / penalty to be imposed in any case, and the more serious ones at any rate.

14. It would be apposite to advert to the Rule-12 of the CCS (CCA) Rules, 1965 whereby the Disciplinary Authorities are defined / provided to be appointed for imposing penalties on a Government servant. The said Rule reads as follows :

"12. Disciplinary Authorities

(1) The President may impose any of the penalties specified in Rule 11 on any Government servant.

(2) Without prejudice to the provisions of sub-rule (1), but subject to the provisions of sub-rule (4), any of the penalties specified in Rule 11 may be imposed on -

(a) a member of a Central Civil Service other than the General Central Service, by the appointing authority or the authority specified in the schedule in this behalf or by any other authority empowered in this behalf by a general or special order of the President;

(b) a person appointed to a Central Civil Post included in the General Central Service, by the authority specified in this behalf by a general or special order of the President or, where no such order has been made, by the appointing authority or the authority specified in the Schedule in this behalf.".....

Therefore, after considering the above-mentioned rival contentions of the parties in the light of the ratio of the relevant guidelines of the DOP&T of the Central Government (*supra*) and the applicable Rules, we are of the view that for conduct of disciplinary proceedings after the receipt of inquiry report in the present case, which would fall under the category of a more serious case at any rate, the Disciplinary Authority and the Inquiry Officer ought not have been one and the same person. The existence of any unavoidable circumstance requiring the IO and the IO to be the same were also not recorded for the present case. Consequently, we also view that this was a fit case to appoint another officer to act as the Disciplinary Authority as per the provisions of the Rule-12 of the CCS (CCA) Rules, 1965.

15. Thus, having carefully gone through the pleadings of the parties available on record ; and having heard the arguments of the learned counsels for the parties; and having referred to the extant guidelines and Rules in this regard; and relying upon the authority of the Judgments of Hon'ble Supreme Court before us as aforesaid - the findings arrived at in the present case are as follows in summary, *inter alia* - that the delay in issuing the charge sheet and commencement of disciplinary proceedings after placing the Applicant under suspension was already held to be directly attributable to him by this Tribunal previously - hence further agitation of the same as one of the issues through the present O.A. was not tenable at this stage ; that adequate opportunities to defend himself were provided to the Applicant/CO in course of the Inquiry proceedings, *inter alia* specifically regarding the opportunity to the Applicant/CO for cross examination of the SWs - hence the contention that the Applicant was not allowed such opportunity is also found to not hold in the present case ; that for conduct of disciplinary proceedings after the receipt of inquiry report in the present case which would fall under the category of a more serious case, the Disciplinary

Authority and the Inquiry Officer ought not have been one and the same person - hence this was a fit case to appoint another officer to act as the Disciplinary Authority as per the provisions of the Rule-12 of the CCS (CCA) Rules, 1965; and that the acquittal of the Applicant in the present O.A. in the criminal CaseNo.400/2010 by the Court of the Additional CJM, Nawalgarh, District Jhunjhunu vide decision / Order dated 23.02.2021, while giving him the benefit of doubt, is found to not absolve him from the liability of the disciplinary proceedings.

17. However, we also hold that it would serve the interest of justice in this case, if for the present the actions of the Disciplinary Authority from the stage of the circulation of the Inquiry Report to the Applicant/CO till the issuing of the impugned Memo dated 15.06.2023 of the Disciplinary Authority (Respondent No.4) are set aside. We quashed and set aside the same to the extent and from the stage of examination of the charges and analysis of the said Inquiry Report dated 28.03.2013. The impugned Memo dated 10.07.2014 of the Appellate Authority (Respondent No.3) is also quashed and set aside in respect of and to similar extent. We also direct that consequently the case along with its entire record shall be transferred to the Chief Post Master General, Rajasthan Circle (Respondent No.2) at first, for consideration of appointment of an officer other than the said Shri Santosh Kumar Sharma, who had prepared the Inquiry Report dated 28.03.2014 to act as the Disciplinary Authority to conduct the disciplinary proceedings from the stage of receipt of the Inquiry Report onwards. We therefore also order accordingly. We also direct that the appointment of the Disciplinary Authority as such and the Presenting Officer shall be done within two weeks of receipt of a copy of this Order and thereafter the Disciplinary Authority shall complete the disciplinary proceedings expeditiously in a time bound manner as per the Rules and guidelines prescribed for the same.

18. Further, we also direct that as a consequence of these Orders the Applicant shall be deemed to be under suspension and the determination of subsistence allowance to be admissible to him, if any, and the period therefore shall be done by passing a specific Order by the Respondents as

per the Rules and guidelines applicable for the same in the circumstances of the case.”

6. After going through the order passed by the learned tribunal, in the facts and circumstances of the present case which is under the category of more serious case, we are in complete agreement with the view taken by the learned tribunal that the disciplinary authority and the enquiry officer cannot be the same person. Further no reason has been assigned by the department as to why the enquiry officer and the disciplinary authority is the same person.

7. Thus, in our considered view, the learned tribunal has not committed any illegality in remanding the matter back to the department for conducting the enquiry afresh from the stage of examination of charges and analysis of the enquiry report. We also appreciate the observation of the learned tribunal in placing the employee under suspension till the completion of the enquiry proceedings.

8. In that view of the matter, this writ petition stands dismissed.

(RAVI CHIRANIA),J

(INDERJEET SINGH),J