



REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL No..... OF 2026
(Arising out of SLP (C) No. 2900/2020)

JAI PRAKASH SAINI

...PETITIONER (S)

VERSUS

**MANAGING DIRECTOR, U.P. COOPERATIVE
FEDERATION LTD. & ORS.**

...RESPONDENT (S)

J U D G M E N T

MANOJ MISRA, J.

1. Leave granted.
2. This appeal impugns the judgment and order of the High Court¹ dated 12.04.2019 whereby the writ petition² of the appellant impugning the order dated 30.11.2015 dismissing

¹ The High Court of Judicature at Allahabad, Lucknow Bench

² Service Bench No.12353 of 2016

him from service and directing recovery of Rs.9,53,433 has been dismissed.

3. The appellant was employed in U.P. Cooperative Federation Limited³ and, at the relevant time, posted as the in-charge of paddy procurement centre. He was served a charge-sheet alleging, *inter alia*, that as the in-charge of the centre he had purchased 1946.60 quintals of paddy from farmers for delivery to M/s Pashupati Nath Food Agro (for short, M/s Pashupati Nath) for de-husking, but delivery was short by 1093.60 quintals. During pendency of the enquiry on the said charge-sheet, a supplementary charge-sheet was served upon the appellant alleging that he had embezzled Rs. 2,00,850 by showing purchases of 5000 sacks of de-husked paddy for storage. The charges were found proved in the enquiry. As a result, the appellant was dismissed from service and a direction to recover the amount was issued.
4. The order of dismissal/ recovery was challenged before the High Court, *inter alia*, on the ground that the enquiry was *de-*

³ The Federation

hors the extant rules and violated the principles of natural justice. It was pleaded that no oral enquiry was held, no date, place and time of enquiry was fixed, and no witness was examined to prove the charges.

- 5.** In the counter affidavit to the writ petition, the respondents accepted that the service conditions of the writ petitioner (i.e., the appellant herein) were governed by the provisions of U.P. Cooperative Societies Act, 1965⁴ as well as U.P. Cooperative Societies Employees Service Regulations, 1975⁵ and Employees Service Rules, 1980 of U.P. Cooperative Federation Limited⁶. It was highlighted that there existed material on record to indicate that the appellant had embezzled the amount sought to be recovered from him. Further, the appellant was provided ample opportunity of hearing in the enquiry. Therefore, there was no violation of the principles of natural justice.

⁴ 1965 Act

⁵ 1975 Regulations

⁶ 1980 Service Rules

6. By the impugned order, the High Court dismissed the writ petition of the appellant. Reasons for the dismissal of the writ petition are found in paragraphs 19 to 26 of the impugned judgment which are reproduced below:

“19. The petitioner was served with a charge-sheet as well as supplementary charge-sheet dated 26.10.2013 and 21.12.2013, respectively. In the said charge-sheet as well as supplementary charge-sheet, it was specifically mentioned that in case petitioner wants to produce any defence witness and wants an opportunity of personal hearing; then, he shall specifically request for the same in his reply to the charge-sheet and supplementary charge-sheet.

20. The petitioner had submitted his reply dated 11.11.2013 to the charge-sheet and reply dated 03.01.2014 to the supplementary charge-sheet denying the charges made against him. The Enquiry Officer thereafter proceeded to hold the enquiry. The Enquiry Officer concluded the enquiry and submitted the enquiry report dated 23.01.2014. The perusal of enquiry report indicates that after submission of reply to the charge-sheet as well as supplementary charge-sheet the Enquiry Officer had fixed the date for holding oral enquiry and in this regard oral enquiry was held on 16.01.2014. The Enquiry Officer considering the charge-sheet, evidence relied in support of the charges, reply as well as evidence relied in defence and the relevant records and thereafter came to conclusion that the charges levelled against the petitioner have been found proved and he is guilty of the alleged misconduct.

21. It is to be noted that the petitioner did not make any request for producing any defence witness during enquiry nor any request to cross-examine any person whose letter or report was relied in support of the charges was made. Neither in the replies submitted to the charge-sheet as well as supplementary charge-sheet nor by any separate letter, the petitioner had made any request to the Enquiry Officer to produce any defence witness or to cross-examine any person in order to deny the alleged charges. The Enquiry Officer on the basis of evidence on record had come to the

conclusion that the charges levelled against the petitioner are found proved.

22. In the given facts and circumstances, it is very much clear that the Enquiry Officer had followed the procedure prescribed in conducting the enquiry and there was no violation of principles of natural justice.

23. So far as the contention that the petitioner was not given opportunity to submit his reply to the enquiry report is concerned, it is to be noted that the petitioner was issued show cause notice dated 24.04.2014 and along with the said show cause notice enquiry report dated 23.01.2014 was annexed. The petitioner was called upon to submit his reply on the proposed punishment as mentioned in the said show cause notice. He was also informed that if he wants an opportunity of personal hearing and wants to produce any witness, etc. in his defence, he may inform and in this regard, may give the details of the names of witnesses and their addresses. It was clarified that at the time of hearing, he will have to produce his witnesses at his own expenses.

24. The petitioner submitted his reply dated 21.05.2014 to the said show cause notice. In this reply, it was submitted that he has to submit many documents and produce witnesses which is possible only in oral enquiry. In the oral enquiry, several persons were required to be cross-examined, however, they were not cross-examined. The opportunity of personal hearing cannot take the place of oral enquiry. He shall be given an opportunity of personal hearing only after holding oral enquiry. He shall not be burdened to bear the expenses of producing the defence witnesses.

25. The perusal of the impugned order clearly goes to indicate that the Disciplinary Authority before passing the impugned order had given opportunity of hearing to the petitioner and in this regard the petitioner was heard by the Disciplinary Authority, Managing Director, PCF on 12.06.2014. After considering the entire material on record and reply to the show cause notice, the Disciplinary Authority by a detailed order had come to the conclusion that the petitioner is guilty of the charges levelled against him and, as such, liable to be punished by awarding punishment of dismissal from service. The competent authority has passed a detailed and reasoned order to award the punishment to the petitioner.

26. Considering the entire aspect of the matter, we are of the considered view that the contention raised by the petitioner has no force and the order impugned awarding punishment of dismissal from service to the petitioner is in accordance with law.”

(Emphasis supplied)

7. We have heard learned counsel for the parties and have perused the records.
8. The learned counsel for the appellant submitted that despite the fact that the charges levelled in the charge-sheet were denied by the appellant, not even a single witness was examined in support of the charges and no oral enquiry was held as is required by the extant service rules, therefore, the order of dismissal and consequential recovery is in teeth of the service rules and violates the principles of natural justice.
9. *Per contra*, on behalf of the respondent it was submitted that there was no specific denial of the charges therefore, examination of witnesses was not required. Moreover, the enquiry report is based on available materials and is well-reasoned, therefore, the High Court was justified in dismissing the writ petition.

- 10.** We have accorded due consideration to the rival submissions and have perused the materials on record. Before we proceed to address the respective submissions, we may put on record that while closing the hearing of this matter, we had requested the learned counsel for the parties to submit their written submissions. Besides, we had requested the counsel representing the respondents to make a specific statement whether any witness was examined by the Federation in the course of disciplinary proceedings held against the appellant.
- 11.** Pursuant thereto, written submissions have been filed.
- 12.** In the written submissions filed on behalf of the appellant, it has been reiterated that no oral enquiry was held, no witness was examined in the disciplinary proceedings and the disciplinary proceedings are in complete violation of the extant rules as also the principles of natural justice. The appellant has also relied on a decision of this Court in ***Chamoli District Co-operative Bank Limited & Another vs. Raghunath Singh Rana & Others***⁷ wherein on ground

⁷ (2016) 12 SCC 204

of there being no oral enquiry, the order of punishment was set aside with liberty to the respondent to hold a *de novo* enquiry in accordance with the rules.

13. In the written submission filed on behalf of the respondents, it is admitted that no witness was examined in the enquiry. However, it is contended that in response to the charge of not supplying 1093.66 quintals of paddy to M/s. Pashupati Nath, the reply of the appellant was evasive and, therefore, it amounted to admitting the charge. Hence, it was not necessary to produce any witness to prove the charge as under Section 58 of the Evidence Act, 1872, facts admitted need not be proved.

14. We do not find substance in the submissions made on behalf of the respondents because there is no categorical admission of the charge by the appellant. Further, a departmental charge-sheet is not a plaint that an evasive reply thereto may amount to an admission. In a departmental enquiry, unless the charge is admitted, the burden to prove the charge lies on the employer/ department. Here, there was no admission of guilt *qua* the charge. Even the High Court, in paragraph 20

of its judgment, had indicated that the writ petitioner (i.e., the appellant herein) had denied the charges made against him. In our view, therefore, the contention on behalf of the respondents that the appellant had admitted the charges is incorrect.

- 15.** Rule 84 of the Service Rules, 1980, which governs the disciplinary proceedings against an employee of the Federation, is *in pari materia* with Regulation 85 of 1975 Regulations, which is extracted below:

“85. Disciplinary Proceedings.—(i) The disciplinary proceedings against an employee shall be conducted by the inquiring officer [referred to in clause (iv) below] with due observance of the principles of natural justice for which it shall be necessary—

(a) The employee shall be served with a charge-sheet containing specific charges and mention of evidence in support of each charge and he shall be required to submit explanation in respect of the charges within reasonable time which shall not be less than fifteen days;

(b) Such an employee shall also be given an opportunity to produce at his own cost or to cross-examine witnesses in his defence and shall also be given an opportunity of being heard in person, if he so desires;

(c) If no explanation in respect of charge-sheet is received or the explanation submitted is unsatisfactory, the competent authority may award him appropriate punishment considered necessary.

(ii) (a) Where an employee is dismissed or removed from service on the ground of conduct which has led to his conviction on a criminal charge; or

(b) Where the employee has absconded and his whereabouts are not known to the society for more than three months; or

(c) Where the employee refuses or fails without sufficient cause to appear before the inquiring officer when specifically called upon in writing to appear; or

(d) Where it is otherwise (for reasons to be recorded) not possible to communicate with him, the competent authority may award appropriate punishment without taking, or continuing, disciplinary proceedings.

(iii) Disciplinary proceedings shall be taken by the society against the employee on a report made to this effect by the inspecting authority or an officer of the society under whose control the employee is working.

(iv) The inquiring officer shall be appointed by the appointing authority or by an officer of the society authorised for the purpose by the appointing authority:

Provided that the officer at whose instance disciplinary action was started shall not be appointed as an inquiring officer nor shall the inquiring officer be the appellate authority.”

16. In ***Chamoli District Co-operative (supra)***, Regulation 85 of 1975 Regulations was applicable, yet no oral enquiry was held. The order of major punishment was challenged by the employee concerned on the ground that no oral enquiry was held. That is, neither any witness was examined to prove the charge nor any witness was offered for cross-examination. This Court after considering a series of its earlier decisions including ***Sur Enamel and Stamping Works Ltd. v.***

Workmen⁸ and State of Uttarakhand & Ors. v. Kharak

Singh⁹, concluded thus:

“22. From the propositions of law, as enunciated by the Apex Court as noted above, and the facts of the present case, we arrive at the following conclusions:

22.1. After service of charge sheet dated 16.01.1993 although the petitioners submitted his reply on 04.02.1993 but neither Inquiry Officer fixed any date of oral inquiry nor any inquiry was held by the inquiry Officer.

22.2. Mandatory requirement of a disciplinary inquiry i.e. holding of an inquiry when the charges are refuted and

⁸ See: AIR 1963 SC 1914: (1964) 3 SCR 616: 1963 SCC OnLine SC 97

“4. ... An enquiry cannot be said to have been properly held unless, (i) the employee proceeded against has been informed clearly of the charges levelled against him, (ii) the witnesses are examined -- ordinarily in the presence of the employee -- in respect of the charges, (iii) the employee is given a fair opportunity to cross examine witnesses, (iv) he is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter, and (v) the inquiry officer records his findings with reasons for the same in his report. In the present case the persons whose statements made behind the backs of the employees were used by the inquiring authority were not made available for cross examination but it would appear that they were not even present at the inquiry. It does not even appear that these reports were made available to the employee at any time before the inquiry was held. Even if the persons who made the reports had been present and the employee given an opportunity to cross examine them, it would have been difficult to say in these circumstances that that was a fair and sufficient opportunity. But in this case, it appears that the persons who made the reports did not attend the inquiry at all. From whatever aspect the matter is examined it is clear that there was no inquiry worth the name and the tribunal was justified in entirely ignoring the conclusion reached by the Domestic Tribunal.”

⁹ See: (2008) 8 SCC 236

“15. From the above decisions, the following principles would emerge:

1. The inquiries must be conducted bona fide and care must be taken to see that the inquiries do not become empty formalities.
2. If an officer is a witness to any of the incidents which is the subject matter of the inquiry or if the inquiry was initiated on a report of an officer, then in all fairness he should not be the inquiry officer. If the said position becomes known after the appointment of the inquiry officer, during the inquiry, steps should be taken to see that the task of holding an inquiry is assigned to some other officer.
3. In an inquiry, the employer /department should take steps first to lead evidence against the workmen / delinquent charged and give an opportunity to him to cross examine the witnesses of the employer. Only thereafter, the workmen / delinquent be asked whether he wants to lead any evidence and asked to give any explanation about the evidence led against him.
4. On receipt of the inquiry report, before proceeding further, it is incumbent on the part of the disciplinary / punishing authority to supply a copy of the inquiry report and all connected materials relied on by the inquiry officer to enable him to offer his views, if any.”

serving the inquiry report to the delinquent has been breached in the present case.

22.3. Respondent 1 employee having not been given opportunity to produce his witnesses in his defence and having not been given an opportunity of being heard in person, the statutory provisions as enshrined in Regulation 85(i)(b), have been violated.

22.4. The disciplinary authority issued show case notice dated 04.05.1993 to respondent 1 employee without holding of an inquiry and subsequent resolution by disciplinary authority taken in the year 2000 without their being any further steps is clearly unsustainable. The High Court has rightly quashed the dismissal order by giving liberty to the Bank to hold de novo inquiry within a period of six months, if it so desires.

22.5. The bank shall be at liberty to proceed with the disciplinary inquiry as per directions of the High Court in para 1 of the judgment. The High Court has already held that petitioner shall be deemed to be under suspension and shall be paid suspension allowance in accordance with the rules.”

17. From the decisions of this Court in ***Sur Enamel (supra)*** and ***Kharak Singh (supra)***, followed in ***Chamoli District Cooperative (supra)***, which deals with similar service rules as are applicable here, it is now settled that unless the charged employee accepts his guilt in clear terms, an enquiry on the charges drawn against him would have to be held. In the enquiry, the employer /department would have to take steps first to lead evidence against the workmen / delinquent charged and give an opportunity to him to cross examine

those witnesses. Only thereafter, the workmen / delinquent shall be asked whether he wants to lead any evidence and/or submit an explanation about the evidence led against him. Even in a case based solely on documentary evidence, unless the relied upon documents are admitted by the charged employee, a witness would have to be examined to prove those documents and when so examined, the witness would have to be tendered for cross-examination.

- 18.** In the instant case, we find that the department had not produced any witness in the enquiry even though the charges levelled upon the appellant were denied by him. Therefore, in our view, the enquiry stood vitiated. Once the enquiry stood vitiated, the consequential order of punishment/ recovery cannot be sustained. We therefore allow this appeal. The impugned judgment and order of the High Court is set aside. The writ petition of the appellant stands allowed to the extent indicated below. The order of dismissal and consequential recovery is set aside. The Federation is, however, at liberty to hold a *de novo* enquiry, if it so desires, within a period of six months from the date of this order. If the Federation does not

hold *de novo* enquiry as permitted above, the appellant shall be entitled to reinstatement with benefit of continuity in service including arrears of salary after adjusting suspension allowance, if any, paid already. In case the Federation chooses to hold an enquiry, it shall reinstate the appellant and place him under suspension till completion of the enquiry and during this period pay suspension allowance as may be payable in accordance with law. In case *de novo* enquiry is held, other service benefits including arrears of salary as well as benefits of continuity in service shall depend on the outcome of the enquiry.

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

20. There is no order as to costs.

.....**J.**

(Sanjay Karol)

.....**J.**

(Manoj Misra)

New Delhi;
April 01, 2026