

Pawan Kumar vs Union Of India And 8 Others on 30 April, 2025

Author: Ashwani Kumar Mishra

Bench: Ashwani Kumar Mishra

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:68628-DB

Court No. - 29

Case :- SPECIAL APPEAL No. - 7 of 2025

Appellant :- Pawan Kumar

Respondent :- Union Of India And 8 Others

Counsel for Appellant :- In Person

Counsel for Respondent :- A.S.G.I.,Anoop Tiwari,Ashok Kumar Lal

Hon'ble Ashwani Kumar Mishra,J.

Hon'ble Praveen Kumar Giri,J.

1. Following orders were passed in the matter on 23.4.2025:-

"1. Heard learned Amicus Curiae for the appellant and Sri Anoop Tiwari, learned counsel for the respondents.

2. On the previous occasion, we provided services of an Amicus Curiae to the appellant-petitioner, who had appeared in person. The petitioner is a Class-IV employee and apparently not well-versed with the niceties of law.

3. When the matter is taken up today, learned Amicus Curiae points out that the disciplinary inquiry has been conducted in violation of principles of natural justice. He submits that previous inquiry officer Sri M.C. Rai had superannuated without concluding the inquiry. A new inquiry officer was appointed on 2.6.2020. He has submitted his inquiry report on 11.9.2020. In the inquiry report it is stated that preliminary hearing was conducted on 23.6.2020 and 26.6.2020.

4. Our attention has been invited to documents at page nos.154 and 208 in order to show that the records relating to inquiry were actually handed over to the new inquiry officer by the Presenting Officer on 23.6.2020 and 26.6.2020. It is, therefore, submitted that when the inquiry officer was not having the records of inquiry the question of affording any opportunity of hearing during the course of inquiry did not arise. It is submitted that the inquiry proceedings are, therefore, vitiated for denial of reasonable opportunity of hearing to the charged employee.

5. Learned counsel for the respondent states that these grounds are not taken in the writ.

6. We have already indicated that the petitioner, who has been dismissed from the post of sweeper was contesting the matter and it is only with the assistance of learned Amicus Curiae that all such facts are highlighted before the Court. In such circumstances, we are not inclined to ignore the submissions advanced on behalf of the learned Amicus Curiae. However, in order to give an opportunity to the bank to controvert such submissions we adjourn the matter for the day.

7. Repeat as fresh once again on 30.4.2025."

2. This Court had passed the above order after noticing the contention of amicus that the inquiry proceedings itself were not fair and proper and that reasonable opportunity of defending the appellant was denied to him. It was also submitted that the inquiry officer was not even having records of the inquiry on the date when the appellant was called for hearing.

3. Since such contention was not specifically taken earlier, therefore, we adjourned the matter on the last occasion with an intend to give opportunity to bank to examine the records and explain the circumstances.

4. Learned counsel appearing for the respondent bank states that the inquiry was in an advanced stage when the new inquiry officer was appointed and, therefore, he had proceeded against the appellant as per law. It is, however, not disputed that on the date fixed for hearing the records were not received from the previous inquiry officer.

5. Sri Ashok Kumar Lal appearing for the bank states that there were two reports of the handwriting experts as also a report of the forensic expert, all of which clearly indicated that the signatures of the appellant on the admit card was at variance with his admitted signatures.

6. In this regard the claim of the appellant was that the examination was conducted within the premises of the engineering college where CCTV footage was installed and that such CCTV footage ought to have been examined. It is also submitted that the neither handwriting expert has not been produced nor he has been allowed to cross examine him. It is further stated that forensic report is also not specific as to which of the signatures have tallied with the disputed signatures. On these aspects it is submitted that an opportunity of hearing otherwise was required which has not been given to the appellant.

7. Our attention has also been invited to page 305 to 307 of the paper book by the counsel for the appellant to state that the signatures are almost similar and since the joining otherwise had taken place after several years, therefore, some variations in signatures would not lead to an inescapable conclusion that it was someone else who had participated in place of the appellant during the course of examination. The recruitment is otherwise to the post of sweeper.

8. Considering the facts and circumstances in its entirety as also the fact that we have found that reasonable opportunity of contest has not been given to the appellant, inasmuch as none of the witnesses are allowed to be cross-examined and even on the date of hearing the complete records were not available with the inquiry officer, as such, it would not be appropriate to allow the findings of disciplinary authority on the strength of such inquiry proceedings.

9. We are of the view that no prejudice would be caused to the bank if an appropriate inquiry in terms of the above observation is allowed to be made.

10. The argument that opportunity was given at the appellate stage also does not impress us in view of the fact that the inquiry report which was relied upon by the appellate authority for sustaining the punishment itself was not conducted in a fair and proper manner, therefore, mere opportunity of hearing at the stage of appeal would not cure the defect.

11. Disciplinary inquiry are quasi judicial proceedings in which a fair procedure is required to be followed for determining the guilt of the charged employee. The date on which the charged employee was called for hearing was the date when the inquiry officer himself was not having the records. Although it is stated that the records were later received on the same day but we are not impressed by the defence of the respondent, inasmuch as the records appear to have been received after the hearing was conducted. Even otherwise the defence of the appellant that his signatures on the admit card be verified has also not been considered. The appellant was also denied opportunity to cross-examine the witnesses.

12. In such view of the matter, we find that the disciplinary enquiry was not conducted in a fair and transparent manner. Once that be so, the consequential orders of punishment passed against the appellant also cannot be sustained.

13. The special appeal, consequently, succeeds and is allowed. The order passed by the learned Single Judge dismissing the writ petition is set aside. The order of termination passed against the petitioner also cannot be sustained in view of conclusions drawn hereinabove. The order of the

disciplinary authority as affirmed in appeal are set-aside for such reasons. Such orders are accordingly set aside. The inquiry stands restored from the state it had gone bad.

14. It shall be open for the employer to reinstate the appellant for the purposes of continuing with the inquiry. It shall be open for the bank to place the appellant under suspension and conclude the inquiry expeditiously. The appellant undertakes to cooperate in such inquiry. The appellant shall be entitled to payment of subsistence allowance.

15. The question of payment of arrears of salary and other relief would remain subject to fresh orders to be passed by the bank in disciplinary proceedings permitted to be undertaken in the aforesaid manner.

16. We also record our appreciation for the assistance rendered to Court by Sri Vinod Kumar Singh, learned amicus. As a good gesture Sri Singh also states that he does not expect any remuneration from from the legal services authority.

Order Date :- 30.4.2025 Kumar Manish