

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.410 of 2022**  
**In**  
**Civil Writ Jurisdiction Case No.11956 of 2005**

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Ganesh Pandey, aged about 66 years, Male, Son of Late Balmiki Pandey, Resident of Village-Shikharichak, P.O.-Mokama Ghat, P.S.- Mokama, District - Patna.

... .. Appellant

Versus

1. The State of Bihar through the Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan (5th Floor), Bir Chand Patel Road, Patna.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan (5th Floor), Bir Chand Patel Road, Patna.
3. The Chief Administrator-cum-Conducting Officer, Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan (5th Floor), Bir Chand Patel Road, Patna.
4. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Madhubani.
5. Chief of Claim, Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan (5th Floor), Bir Chand Patel Road, Patna.

... .. Respondents

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**Appearance :**

For the Appellant : Mr. Abhinav Shrivastava, Sr. Advocate, Mrs. Shashi Priya Pathak, Advocate and Ms. Antra Azad, Advocate  
For the Respondents : Mr. Shailendra Kumar Singh, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH**  
**and**  
**HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA**  
**ORAL ORDER**

**(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)**

8      16-04-2026                      Heard learned counsel for the appellant and learned counsel for the respondents.

2. The present *intra court* appeal has been filed



against the judgment dated 18.07.2022 passed by a learned Single Judge of this Court in C.W.J.C. No. 11956 of 2005, whereby the writ petition filed by the petitioner/appellant came to be dismissed.

3. C.W.J.C. No. 11956 of 2005 was filed by the appellant, seeking following reliefs:

*“3. (i) For issuance of a writ in the nature of certiorari quashing the order of dismissal as contained in Memo No. 5142 dated 22.08.2003 and order rejecting Review Petition of the petitioner as contained in Memo No. 3931 dated 26.05.2005 which forms Annexures-13 and 16 of this petition.*

*(ii) Issuance of a further writ of certiorari quashing the Memo of Charges as appended to Letter No. 7646 dated 14.12.2001 and the entire departmental proceedings in consequence thereof.*

*(iii) Issuance of a writ in the nature of Mandamus directing the Respondent authorities to reinstate the petitioner on the post he would have been entitled for with all consequential benefits and refrain from fastening culpability on the petitioner on one or other filmisical grounds.*

*(iv) To any other relief or reliefs to which the petitioner may be entitled.”*



4. The brief facts of the case are that the appellant, while working as Assistant Godown Manager in Bihar State Food and Civil Supply Corporation Limited at Madhubani, was subjected to an audit, pursuant to which the appellant was alleged to be liable for defalcation of Rs. 5,32,948/- and was placed under suspension vide memo dated 09.05.1995. On 11.07.1996, the appellant sought recalculation of the alleged liability on the ground that the audit report had been prepared beyond relevant records, whereafter Respondent No. 4 reassessed the matter and found Rs. 2,56,936.01/- due, subject to verification by the auditor. The suspension was revoked on 30.08.1999; however, the appellant was again placed under suspension on 19.10.2001, and a charge memo dated 14.12.2001 was served upon the appellant, wherein it was alleged by the appellant that the documents said to be enclosed were not supplied despite repeated requests.

5. Subsequently, a letter dated 29.10.2002 was issued for initiation of civil and criminal proceedings, which, along with the second suspension order, was challenged by the appellant in C.W.J.C. No. 1459/2003 but was dismissed on 27.03.2003 on the ground of pending investigation. Meanwhile, departmental proceedings were initiated on 27.02.2003, and



though the appellant was directed to collect documents from the District Office, Madhubani, but it was informed that the records had already been sent to the head office and had not been returned; nevertheless, within a short span, a second show cause along with the enquiry report recommending punishment was issued on 07.07.2003, and thereafter punishment was imposed vide memo dated 22.08.2003. The appellant challenged the said punishment in C.W.J.C. No. 13124/2003, which was disposed of on 07.03.2005 granting liberty to the appellant to file a review; however, the review application filed on 14.05.2005 was dismissed on 26.05.2005, and thereafter, appellant again challenged the same in C.W.J.C. No. 11956/2005 which was also dismissed on 18.07.2022.

6. The learned Single Judge in C.W.J.C. No. 11956 of 2005, passed the following order:

*“10 Perusal of the reviewing authority and disciplinary authority’s order, it is crystal clear that they have not straightway accepted the Inquiring Officer’s recommendation in respect of imposition of penalty of dismissal from service. On the other hand, both reviewing and disciplinary authority have examined the material on record as is evident from Annexure-13 and Annexure-16 dated 22.08.2003 and 26.05.2005. In the light of*



*these facts and circumstances, petitioner has not made out a case.*

*11. Accordingly, petition stands dismissed.”*

7. Learned Counsel for the appellant submits that the learned Single Judge has misinterpreted the facts and grounds of the appellant's case. It is pointed out that the appellant was not actually provided with the required documents rather, the authorities merely issued directions to the District Office to make the documents available, which in effect were never furnished to him. It is further submitted that it is a settled position in law that where any material is proposed to be relied upon in a departmental proceeding, a copy of the same must be supplied to the charge-sheeted employee so that he has a fair opportunity to rebut it, failing which the entire process stands vitiated for violation of the principles of natural justice.

8. Learned counsel for the respondents submits that there is no defect in departmental proceeding, thus the impugned order passed by learned Single Judge does not suffer from any infirmity. As such, the order of the learned Single Judge requires no interference.

9. Vide order dated 31.03.2026, this Court had directed production of the original records of departmental



proceedings to ascertain whether the appellant had been supplied with the documents sought by him. The same has been produced before this Court.

10. Upon perusal of the original records, and materials available on record (Annexure-B dated 03.05.2003, and Annexure-C dated 02.06.2003 to the counter affidavit), it is apparent that there is nothing on record to demonstrate that the documents specifically demanded by the appellant during the course of the departmental inquiry were ever furnished to him. The record remains conspicuously silent, not only as to the actual supply of such documents, but also with respect to any communication or acknowledgment, indicating that the appellant was made aware of, or provided access to, the material relied upon against him.

11. The limited issue before this Court is whether the failure of the respondent authorities to supply the documents sought by the appellant during the departmental enquiry has caused prejudice to him, thereby vitiating the proceeding as being contrary to the principles of natural justice and warranting interference in the present *intra-court* appeal.

12. It is well settled that a reasonable opportunity must be afforded to the delinquent employee to ensure



compliance with the principles of natural justice. In this regard, the Hon'ble Supreme Court in *State of Uttaranchal and Ors. vs. Kharak Singh*, reported in (2008) 8 SCC 236, has laid down the governing principles of a fair departmental enquiry as under:

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

*(i) The enquiries must be conducted bona fide and care must be taken to see that the enquiries do not become empty formalities.*

*(ii) If an officer is a witness to any of the incidents which is the subject-matter of the enquiry or if the enquiry was initiated on a report of an officer, then in all fairness he should not be the enquiry officer. If the said position becomes known after the appointment of the enquiry officer, during the enquiry, steps should be taken to see that the task of holding an enquiry is assigned to some other officer.*

*(iii) In an enquiry, the employer/department should take steps first to lead evidence against the workman/delinquent charged and give an opportunity to him to cross-examine the witnesses of the employer. Only thereafter, the workman/delinquent be asked whether he wants to lead any evidence and asked to give*



*any explanation about the evidence led against him.*

*(iv) On receipt of the enquiry report, before proceeding further, it is incumbent on the part of the disciplinary/punishing authority to supply a copy of the enquiry report and all connected materials relied on by the enquiry officer to enable him to offer his views, if any.”*

13. Having considered the aforesaid principles laid down by the Hon'ble Supreme Court, this Court is of the view that the departmental proceeding in the present case was not conducted in a fair and bona fide manner. It is evident from the record that, despite repeated requests, the appellant was not furnished with the relevant documents and materials which formed the basis of the charges against him. In the absence of such essential documents, the appellant was effectively deprived of a meaningful opportunity to defend himself. Further, there is nothing on record to show that the materials relied upon during the course of inquiry was supplied to the appellant before the disciplinary authority proceeded to impose punishment. The manner in which the enquiry was conducted, without ensuring compliance with these basic requirements, indicates that it was reduced to a mere formality rather than a genuine fact-finding



exercise.

14. Further, a similar view taken by the Hon'ble Supreme Court in ***State of U.P. and Ors. vs. Saroj Kumar Sinha***, reported in ***(2010) 2 SCC 772***, wherein it has been clearly held that a government employee facing a departmental enquiry is entitled to all relevant statements, documents and materials so as to enable him to effectively defend himself. The relevant paragraph is reproduced hereunder:

*“39. The proposition of law that a government employee facing a departmental enquiry is entitled to all the relevant statements, documents and other materials to enable him to have a reasonable opportunity to defend himself in the departmental enquiry against the charges is too well established to need any further reiteration. ...”*

15. Similarly, same principle has been elaborately explained in ***Kashinath Dikshita vs. Union of India***, reported in ***(1986) 3 SCC 229***, where the Hon'ble Supreme Court observed that unless copies of the documents and statements sought to be relied upon are furnished to the delinquent employee, it would be virtually impossible for him to meet the charges in an effective manner, and any such denial would amount to denial of reasonable opportunity. The relevant paragraph is reproduced



hereunder:

*“10. ...When a government servant is facing a disciplinary proceeding, he is entitled to be afforded a reasonable opportunity to meet the charges against him in an effective manner. And no one facing a departmental enquiry can effectively meet the charges unless the copies of the relevant statements and documents to be used against him are made available to him. In the absence of such copies, how can the concerned employee prepare his defence, cross-examine the witnesses, and point out the inconsistencies with a view to show that the allegations are incredible? It is difficult to comprehend why the disciplinary authority assumed an intransigent posture and refused to furnish the copies notwithstanding the specific request made by the appellant in this behalf. Perhaps the disciplinary authority made it a prestige issue. If only the disciplinary authority had asked itself the question: “What is the harm in making available the material?” and weighed the pros and cons, the disciplinary authority could not reasonably have adopted such a rigid and adamant attitude. On the one hand there was the risk of the time and effort invested in the departmental enquiry being*



*wasted if the courts came to the conclusion that failure to supply these materials would be tantamount to denial of reasonable opportunity to the appellant to defend himself. On the other hand by making available the copies of the documents and statements the disciplinary authority was not running any risk. There was nothing confidential or privileged in it. It is not even the case of the respondent that there was involved any consideration of security of State or privilege. ....*

*12. Be that as it may, even without going into minute details it is evident that the appellant was entitled to have an access to the documents and statements throughout the course of the inquiry. He would have needed these documents and statements in order to cross-examine the 38 witnesses who were produced at the inquiry to establish the charges against him. So also at the time of arguments, he would have needed the copies of the documents. So also he would have needed the copies of the documents to enable him to effectively cross-examine the witnesses with reference to the contents of the documents. It is obvious that he could not have done so if copies had not been made available to him. Taking an overall view of the matter we have no doubt in our*



*mind that the appellant has been denied a reasonable opportunity of exonerating himself. ...*

*14. In view of the pronouncements of this Court it is impossible to take any other view. As discussed earlier the facts and circumstances of this case also impel us to the conclusion that the appellant has been denied reasonable opportunity to defend himself. In the result, we are of the opinion that the impugned order of dismissal rendered by the disciplinary authority is violative of Article 311(2) of the Constitution of India inasmuch as the appellant has been denied reasonable opportunity of defending himself and is on that account null and void ... ..”*

16. Similarly in the case of ***State of Punjab v. Bhagat Ram***, reported in ***(1975) 1 SCC 155***, the Hon’ble Supreme Court has observed the following:

*“7. The meaning of a reasonable opportunity of showing cause against the action proposed to be taken is that the government servant is afforded a reasonable opportunity to defend himself against charges on which inquiry is held. The government servant should be given an opportunity to deny his guilt and establish*



*his innocence. ...”*

17. Upon careful consideration of the entire facts and circumstances of the case, the materials available on record, and the settled legal position, this Court is of the considered view that the impugned action of respondent authorities is unsustainable in law. It is trite that observance of the principles of natural justice, particularly the rule of *audi alteram partem*, is not a mere procedural formality but an essential requirement to ensure fairness in any disciplinary proceeding. The right of a delinquent employee to be supplied with all the documents and materials relied upon by the employer is an integral facet of a fair opportunity of defence.

18. In the present case, the consistent stand of the appellant is that the relevant documents forming the very basis of the charges were repeatedly sought but were never supplied to him. This position is also reflected from the record, as no material has been placed to demonstrate effective compliance with such requests. The consequence of such non-supply is not merely technical; it goes to the root of the enquiry. A delinquent employee, when called upon to answer serious allegations, must necessarily be afforded access to the foundational material on which the charges rest. In the absence of such material, the



appellant was effectively required to respond in the dark, without being made aware of the precise evidence and documents sought to be used against him. Such a situation clearly results in denial of a meaningful opportunity of defence and renders the entire exercise unfair and one-sided.

19. This Court also finds that the record does not disclose any plausible or satisfactory justification for the non-supply of the documents sought by the appellant. From the material available on record, it appears that although the appellant was directed to collect the relevant documents from the District Office, the same were not available at the field level. The record does not indicate that any effective steps were taken by the authorities to ensure that such documents were made accessible to the appellant. In these circumstances, the non-availability of the documents cannot be treated as a valid explanation for the lapse; rather, it points to a clear and serious lapse on the part of the authorities concerned, who were under an obligation to maintain and furnish the records forming the very basis of the charges. Such a situation, being entirely attributable to the respondents, cannot be allowed to prejudice the rights of the delinquent employee. It is a settled position that an employee cannot be made to suffer on account of lapses



attributable to the employer in ensuring availability of the material required for his defence. Therefore, the inability of the authorities to serve or supply the relevant documents cannot, in law, be used to justify denial of a fair opportunity of defence, and the same cannot be permitted to operate to the detriment of the appellant.

20. In view of the above, the enquiry proceedings cannot be said to have been conducted in a fair, transparent, or bona fide manner. Rather, the manner in which the proceedings have been conducted gives rise to a clear impression that the enquiry was reduced to a mere formality, without adherence to the essential safeguards required under law. The opportunity purportedly afforded to the appellant was, therefore, illusory and not in conformity with the principle of natural justice.

21. In the light of the aforesaid discussion, this Court is clearly of the view that the entire departmental proceeding stands vitiated on account of violation of the principles of natural justice, resulting in manifest prejudice to the appellant. The learned Single Judge, has not appropriately appreciated the effect of such non-supply of documents on the fairness of the enquiry, and therefore the impugned order cannot be sustained in law.



22. Accordingly, the order passed by the learned Single Judge is set aside. The present *intra-court* appeal is allowed. The respondents are directed to extend all consequential benefits to the appellant, including the retiral benefits, within a period of four months from the date of receipt/production of a copy of this judgement.

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

24. The original records which were called for has been produced by Mr. Shailendra Kumar Singh, learned counsel for the respondents. The Court has perused the same. Let the original record be handed over to Mr. Shailendra Kumar Singh, learned counsel for the respondents.

**(Sudhir Singh, J)**

**(Sunil Dutta Mishra, J)**

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