



2026:AHC-LKO:67609

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 1 of 2007

Nazar Husain Khan

.....Petitioner(s)

Versus

Member Secy. State Cadre Authority and Anr.

.....Respondent(s)

Counsel for Petitioner(s)	: Salik Ram Yadav,
Counsel for Respondent(s)	: I.p. Singh, Ashutosh Singh, C P Mishra, U.p. Singh

A.F.R.

Reserved on 23.07.2026

Delivered on 23.09.2026

Court No. 30

HON'BLE GARIMA PRASHAD, J.

1. Heard Sri Salik Ram Yadav, learned counsel for the petitioner. None appears on behalf of the respondents. Perused the record.
2. The petitioner has challenged the order dated 21.02.2006 passed by the District Administrative Committee, Sultanpur, dismissing him from service, and the appellate order dated 15.09.2006 affirming the dismissal. He has also sought consequential service benefits.
3. The petitioner was appointed as a Secretary in the Centralised Service in the year 1978. While posted in the co-operative societies situated within Development Block Jamo, District Sultanpur, he was placed under suspension on 05.06.1999.
4. By an order dated 26.04.2000, this Court directed the respondents to serve a charge-sheet upon the petitioner within one month and to conclude the disciplinary proceedings, including the passing of the final

order, by 15.08.2000. It was further provided that, if the proceedings were not concluded within the stipulated period, the suspension would stand revoked. The petitioner was reinstated on 04.11.2000 but was again suspended on 15.01.2001.

5. The petitioner was thereafter dismissed from service on 05.09.2001. He challenged the dismissal in Writ Petition No. 5786 (S/S) of 2003. The writ petition was not entertained on merits, and the petitioner was relegated to the statutory remedy of appeal under Regulation 60 of the U.P. Primary Agricultural Co-operative Credit Societies Centralised Service Regulations, 1978.

6. By order dated 05.04.2005, the appellate authority allowed the appeal to the extent of remitting the matter to the District Administrative Committee for a fresh inquiry in accordance with the applicable Regulations. The petitioner was also required to hand over charge of the societies concerned.

7. Pursuant to the remand, an Inquiry Officer was appointed on 26.04.2005. A charge-sheet dated 10.06.2005 and a supplementary charge-sheet dated 10.08.2005 were served upon the petitioner. The charges related to various financial transactions and records of the societies. They included expenditure and withdrawals shown towards construction or repair of godowns, payment of salary to a chowkidar, purchase of dead stock, retention or withdrawal of money belonging to the societies, and failure to hand over complete charge.

8. The petitioner submitted detailed replies denying the charges. He maintained that the expenditure had been incurred for the purposes of the societies and was supported by vouchers, registers, balance sheets and earlier approvals.

9. The Inquiry Officer considered the available records, found the charges proved and submitted the inquiry report under a covering letter dated 21.10.2005. The District Administrative Committee considered the matter on 10.11.2005 and directed that a show-cause notice be issued to the petitioner. The notice dated 01.12.2005 was served along with a copy

of the inquiry report, and the petitioner submitted his response dated 05.12.2005.

10. The matter was again placed before the District Administrative Committee on 27.01.2006 after notice to the petitioner. The Committee found that the petitioner had embezzled an amount of Rs.48,652.52, had committed financial irregularities involving Rs.3,768 and had failed to hand over charge of the societies. On the basis of these findings, the order dated 21.02.2006 dismissing the petitioner from service was issued.

11. The petitioner preferred an appeal on 10.03.2006. The appellate order records that 14.09.2006 was fixed for hearing but the petitioner did not appear despite notice. The appellate authority nevertheless considered his written grounds of appeal, the inquiry record and the response of the District Administrative Committee and rejected the appeal by order dated 15.09.2006.

12. Learned counsel for the petitioner submits that the fresh inquiry conducted after remand was no inquiry in the eye of law. It is contended that the documents relied upon in support of the charges were not supplied, no effective date, time and place were fixed for the inquiry, no witness was examined in the petitioner's presence and no opportunity of cross-examination was afforded to him.

13. It is further submitted that the charges were vague and that the Inquiry Officer failed to consider the petitioner's transaction-wise explanations and the vouchers produced by him. The petitioner also complains that subsistence allowance was not paid during the period of suspension, thereby affecting his ability to defend himself.

14. The dismissal order has also been challenged on the ground that the District Administrative Committee merely approved the earlier dismissal order dated 05.09.2001 instead of taking a fresh decision after remand.

15. *Per Contra*, learned counsel for the respondents submits that the petitioner repeatedly failed to hand over complete charge of the

societies. The premises had to be opened under the orders of the competent authority, inventories were prepared and the records recovered from the premises were made available during the inquiry.

16. It is submitted that the petitioner received both the charge-sheet and the supplementary charge-sheet and filed detailed replies. He was informed of the dates fixed in the inquiry and was offered inspection of the original records, but he failed to avail himself of the opportunities given to him. A copy of the inquiry report was supplied with the show-cause notice, and the petitioner was also given an opportunity to appear before the District Administrative Committee before the final decision was taken.

17. As regards subsistence allowance, the respondents submit that payment could not be released because the petitioner failed to furnish the prescribed declaration that he was not engaged in any other employment or business during the period of suspension.

18. The principal question is whether the proceedings culminating in the petitioner's dismissal were conducted in accordance with the applicable Regulations and the principles of natural justice, and whether any procedural defect causing prejudice, perversity in the findings or disproportionality in the punishment has been established so as to warrant interference under Article 226 of the Constitution.

19. The scope of judicial review in disciplinary matters is limited. The Court is concerned with the fairness and legality of the decision-making process. It may examine whether the competent authority followed the prescribed procedure, afforded the employee a reasonable opportunity to defend himself and based its conclusions on some relevant evidence. The Court does not sit in appeal over the disciplinary authority or reassess the evidence merely because another view may also be possible.

20. In *State of Karnataka v. N. Gangaraj*, (2020) 3 SCC 423, the Supreme Court reiterated that the High Court, while exercising judicial review, does not reappreciate the evidence considered in disciplinary proceedings. Interference is permissible where the inquiry was

conducted by an incompetent authority, the prescribed procedure or the principles of natural justice were violated, the conclusion was based on no evidence, or the punishment was such that no reasonable authority could have imposed it.

21. The Supreme Court has also explained in *Regional Manager, UCO Bank v. Krishna Kumar Bhardwaj*, (2022) 5 SCC 695, and *S. Janaki Iyer v. Union of India*, 2025 INSC 742, that every procedural objection does not automatically invalidate a disciplinary proceeding. The principle of prejudice requires the Court to examine whether the alleged defect actually impaired the employee's defence. Where non-supply of material or vagueness of a charge is alleged, the employee must identify the defect and show how it caused prejudice to the defence.

22. Tested on these principles, the contention that the charges were vague cannot be accepted. The charge-sheet and the supplementary charge-sheet identified the societies concerned, the transactions, the amounts involved and the nature of the alleged irregularities. The petitioner's replies dealt with the charges transaction by transaction. He explained the expenditure incurred on the godowns, the payment of the chowkidar's salary, the purchase of dead stock and the entries relied upon by the department. The nature and detail of these replies show that the petitioner understood the charges which he was required to answer.

23. The record also does not support the contention that the petitioner was denied a reasonable opportunity to defend himself. The disciplinary and appellate orders record that dates were fixed for the inquiry and inspection of the records and that the petitioner was repeatedly called upon to participate. The petitioner's own pleadings indicate that he attended, or attempted to attend, the proceedings on 22.09.2005, 10.11.2005 and 27.01.2006. His case is that he was sent back without an effective hearing, but no material has been placed on record to displace the contemporaneous record of the proceedings.

24. The petitioner has made a general allegation that the original documents relied upon by the department were not supplied to him. He

has not, however, identified any particular document which was withheld, explained its relevance to a specific charge, or shown what defence he was unable to present because of its non-supply. The respondents, on the other hand, state that inspection of the original records was offered to him.

25. The petitioner's detailed replies refer to vouchers, registers, balance sheets and approvals and set out his defence to the individual transactions. A copy of the inquiry report was also supplied to him with the show-cause notice, enabling him to object to the findings before the final order was passed. In these circumstances, no specific prejudice arising from the alleged non-supply of documents has been established.

26. Learned counsel for the petitioner has relied upon *K.P. Giri v. State of U.P.*, (2001) 1 UPLBEC 908. In that case, the inquiry proceeded without fixing and communicating an effective date for the inquiry and without confronting the employee with the material accepted against him. The present case stands on a different footing. Specific charges were served upon the petitioner, he submitted detailed replies, opportunities for inspection and participation were offered, the inquiry report was supplied to him, his response was considered by the Committee and he was thereafter afforded a statutory appeal. The decision in *K.P. Giri (supra)* does not, therefore, assist the petitioner on the facts of the present case.

27. The plea relating to non-payment of subsistence allowance also does not, by itself, invalidate the proceedings. Subsistence allowance is an important protection available to a suspended employee. Where its non-payment prevents an employee from participating in the inquiry or effectively presenting his defence, the resulting proceedings may be vitiated. The employee must, however, show a connection between the non-payment and the prejudice claimed.

28. The respondents have explained that the subsistence allowance could not be released because the petitioner failed to submit the prescribed declaration that he was not engaged in any other employment or

business. The petitioner has not pleaded that lack of funds prevented him from attending any particular date of inquiry, engaging in his defence, producing any document or examining any witness. He submitted detailed replies, responded to the show-cause notice, filed a statutory appeal and pursued proceedings before this Court. No actual prejudice arising from non-payment of subsistence allowance has, therefore, been established.

29. The contention that the order dated 21.02.2006 merely revived the earlier dismissal order dated 05.09.2001 is also not borne out by the record. The order refers to the appellate remand, appointment of the Inquiry Officer, service of the fresh charge-sheet and supplementary charge-sheet, the petitioner's replies, the inquiry report, the show-cause notice and the subsequent consideration by the District Administrative Committee. The Committee recorded findings after the fresh inquiry and imposed the punishment of dismissal. A reference to approval of the earlier order does not alter the substance of the fresh decision taken after remand.

30. The petitioner's remaining contentions relate essentially to the correctness of the findings on the financial transactions. According to him, the expenditure was duly supported by vouchers and had been incurred for legitimate purposes of the societies. The respondents have specifically disputed the availability and genuineness of the vouchers relied upon by him.

31. The Inquiry Officer considered the records of the societies and the petitioner's explanations. The District Administrative Committee thereafter considered the inquiry report and the petitioner's response before recording its findings. The appellate authority also considered the written grounds of appeal and the relevant record before affirming the dismissal.

32. Whether a particular voucher had been submitted to audit, whether an item of expenditure had received proper approval, and whether the petitioner's explanation should have been accepted are matters

concerning the weight and reliability of the evidence. Reconsideration of these questions would require the Court to conduct a fresh assessment of the disciplinary record, which is beyond the proper scope of judicial review.

33. The findings against the petitioner concern misappropriation of the funds of the societies, other financial irregularities and failure to hand over charge. These findings are based upon the records considered by the Inquiry Officer, the District Administrative Committee and the appellate authority. The petitioner has not shown that the findings rest on no evidence, are based upon an irrelevant consideration or are so unreasonable that no competent authority could have reached them.

34. Misappropriation or failure to account for funds entrusted to an employee is serious misconduct involving a breach of trust. Having regard to the nature of the proved charges, the punishment of dismissal cannot be regarded as shockingly disproportionate.

35. On an overall consideration of the record, the petitioner was afforded adequate opportunity at the stages of the charge-sheet, inquiry, show-cause notice and statutory appeal. No procedural irregularity causing actual prejudice has been established. The challenge to the findings would require an impermissible reappreciation of evidence, while the punishment imposed is proportionate to the nature of the misconduct.

36. The writ petition lacks merit and is accordingly dismissed.

37. Pending applications, if any, also stand disposed of.

38. There shall be no order as to costs.

(Garima Prashad,J.)

September 23, 2026

Sachin Mishra