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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 263/2025, CM APPL. 23275/2025, CM APPL. 23278/2025
UNION OF INDIA THROUGH SECRETARY MINISTRY OF
RAILWAYSAppellant

Through: Appearance not given

versus

SH R K MITTALRespondent

Through: Mr. Balendu Shekhar, CGSC with mr.
Rajkumar Maurya, Mr. Krishna
Chaitanya and Ms. Tanisha Samanta,
Advocates.
Mr. Shanker Raju and Mr. Nilansh
Gaur, Advocates.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD
HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

ORDER

% **16.10.2025**

1. The instant Appeal has been filed challenging the judgment dated 21.11.2024 passed in W.P.(C) 6244/2020. The writ petition was filed seeking quashing of the impugned chargesheet dated 18.12.2018, inquiry report dated 25.06.2019 and penalty order dated 11.07.2019 as well as subsequent orders dated 10.12.2019 and 08.10.2020.
2. The learned Single Judge was of the opinion that since the law laid down by the Apex Court in ***Union of India v. Mohd. Ramzan Khan [(1991) 1 SCC 588]*** as affirmed and held to be prospective by ***ECIL v. B. Karunakar, (1993) 4 SCC 727*** held that since the inquiry report had not been supplied to the Appellant, the consequent penalty orders cannot be upheld. Paragraph Nos. 17, 18 and 19 of the judgment in ECIL (supra) reads as under:-



“17. Since it is contended that in K.C. Asthana v. State of U.P. [(1988) 3 SCC 600 : 1988 SCC (L&S) 869] a Bench of three learned Judges has taken a view that it is not necessary to furnish the report of the enquiry officer to the delinquent employee before the disciplinary authority arrives at its conclusions, it is necessary to consider the said authority a little closely. In that case, pursuant to the direction of the High Court, an inquiry was conducted by the Administrative Tribunal under the Uttar Pradesh Disciplinary Proceedings (Administrative Tribunal) Rules, 1947 against the petitioner who was a Munsif Magistrate. The charge against him was that he had demanded bribe from a plaintiff in a suit pending before him. After completion of the inquiry, the entire matter was considered by the Full Court of the High Court which approved the findings of the Administrative Tribunal holding the writ petitioner guilty. The High Court thereafter requested the Governor to remove the petitioner from service and the impugned order terminating the services of the petitioner was accordingly passed. The petitioner challenged the order under Article 32 of the Constitution. The petitioner had also filed an application under Article 226 of the Constitution before the Allahabad High Court which was dismissed in limine. The appeal against the said order was also heard along with the writ petition. One of the contentions raised before this Court by the counsel for the petitioner was that a copy of the report of the Administrative Tribunal was not made available to the petitioner and this must be held to have vitiated the subsequent proceedings including the impugned order of punishment. In this connection, a reference was made to the Explanation to sub-rule (3) of Rule 9 of the said Rules providing that a copy of the recommendations of the Tribunal as to the penalty should be furnished to the charged Government servant. As against this, the learned counsel for the respondents-State of U.P. and others pointed out that after the Forty-second Amendment of the Constitution the said Explanation was dropped. The Court, therefore, observed as follows:

“The question of service of copy of the report arose on account of a right of a second show cause notice to the government servant before the Forty-second Amendment and since present disciplinary proceeding was held later, the petitioner cannot legitimately demand a second opportunity. That being the position, non-service of a copy of the report is immaterial.”

18. *In this view of the matter, the Court dismissed the writ*



petition. It would thus be clear that the contention before this Court in that case was that the copy of the report of the inquiring authority was necessary to show cause at the second stage, i.e., against the penalty proposed. That was also how the contention was understood by this Court. The contention was not and at least it was not understood to mean by this Court, that a copy of the report was necessary to prove the innocence of the employee before the disciplinary authority arrived at its conclusion with regard to the guilt or otherwise on the basis of the said report. Hence, we read nothing in this decision which has taken a view contrary to the view expressed in E. Bashyan case [(1988) 2 SCC 196 : 1988 SCC (L&S) 531 : (1988) 7 ATC 285 : (1988) 3 SCR 209] by a Bench of two learned Judges or to the view taken by three learned Judges in Union of India v. Mohd. Ramzan Khan [(1991) 1 SCC 588 : 1991 SCC (L&S) 612 : (1991) 16 ATC 505] .

19. *In Mohd. Ramzan Khan case [(1991) 1 SCC 588 : 1991 SCC (L&S) 612 : (1991) 16 ATC 505] the question squarely fell for consideration before a Bench of three learned Judges of this Court, viz., that although on account of the Forty-second Amendment of the Constitution, it was no longer necessary to issue a notice to the delinquent employee to show cause against the punishment proposed and, therefore, to furnish a copy of the enquiry officer's report along with the notice to make representation against the penalty, whether it was still necessary to furnish a copy of the report to him to enable him to make representation against the findings recorded against him in the report before the disciplinary authority took its own decision with regard to the guilt or otherwise of the employee by taking into consideration the said report. The Court held that whenever the enquiry officer is other than the disciplinary authority and the report of the enquiry officer holds the employee guilty of all or any of the charges with proposal for any punishment or not, the delinquent employee is entitled to a copy of the report to enable him to make a representation to the disciplinary authority against it and the non-furnishing of the report amounts to a violation of the rules of natural justice. However, after taking this view, the Court directed that the law laid down there shall have prospective application and the punishment which is already imposed shall not be open to challenge on that ground. Unfortunately, the Court by mistake allowed all the appeals which were before it and thus set aside the disciplinary action in every case, by failing to notice that the actions in those cases were prior to the said decision. This anomaly was noticed at a*



later stage but before the final order could be reviewed and rectified, the present reference was already made, as stated above, by a Bench of three learned Judges. The anomaly has thus lent another dimension to the question to be resolved in the present case.”

3. The learned Counsel appearing for the Respondent has also placed reliance on a recent judgment of the Apex Court in ***State of Uttar Pradesh Through Principle Secretary, Department of Panchayati Raj, Lucknow vs. Ram Prakash Singh, 2025 INSC 555***. The Apex Court in the said judgment has observed as under:-

*“51. Thus said, what is the way for reconciling the law laid down in the precedents discussed so far? Attempting to clear the confusion arising out of different understandings of the ratio decidendi of the decision in **B. Karunakar (supra)**, we proceed to focus on the proper course for the tribunal/court to adopt when the issue reaches it for adjudication. In our opinion, whenever a challenge is mounted to an order of punishment on, inter alia, the ground that the report of enquiry has not been furnished, the tribunal/court should require the employer (Government, public or private) to justify nonfurnishing of such report. This is a course, which again experience has shown, is seldom followed. If no valid explanation is proffered and the tribunal/court suspects unfair motives (report has not been furnished as part of a strategic ploy or to advance an unholy cause or prompted by extraneous reasons) or carelessness, without much ado and without insisting for ‘prejudice’ to be demonstrated, the order of punishment should be set aside and the proceedings directed to resume from the stage of offering opportunity to the delinquent employee to respond to the enquiry report. Irrespective of ‘prejudice’ being demonstrated, no employer or for that matter anyone should be permitted to steal a march and gain any benefit by violating the law. In case the tribunal/court is satisfied that real effort was made by the employer but such effort remained abortive because the report could not be furnished to the employee for reason(s) beyond its control, or some other justification is placed on record, which is acceptable to the tribunal/court, the test of ‘prejudice’ is open to be applied but only after ensuring service of a copy of the enquiry report on the employee. In a case where the employee either expressly or by his conduct appears to have waived the requirement of having access*



to the report, it would be open to the tribunal/court to deal with the situation as per its discretion. However, the simplicitor application of the 'prejudice' test absent a query to the employer, as indicated above, in our opinion, would be in the teeth of the law laid down in **B. Karunakar (supra)**.

52. We now sum up our understanding of the law declared in **B. Karunakar (supra)** and answer the four questions delineated in paragraph 26 (supra) compositely. Reading the declaration of law by the Constitution Bench regarding the imperative need to furnish the report of enquiry to the delinquent employee even when: (i) the relevant statutory rules are silent or against it, (ii) the punishment to be imposed is other than the punishment referred to in clause (2) of Article 311 of the Constitution, (iii) the employee does not ask for it, and (iv) the burden is cast on a private employer too, and the law requiring furnishing of the report being made to operate prospectively from the date the decision in **Mohd. Ramzan Khan (supra)** was rendered, thereby reinforcing the legal position that prevailed after the GoI Act was enacted but became unsettled later, there can be no two opinions that on and from 20th November, 1990 [i.e., when **Mohd. Ramzan Khan (supra)** was decided] it is the mandatory requirement of law that the report of enquiry has to be furnished to the delinquent employee. Taking a cue from **S. K. Sharma (supra)**, we are inclined to the view that the requirement of furnishing the report of enquiry, though procedural, is of a mandatory character and the bogey argument of the employer to apply the test of 'prejudice' when the report of enquiry is not furnished cannot be of any avail to thwart the challenge of the delinquent employee. Such test could call for application, if from the facts and circumstances, it can be established that the delinquent employee waived his right to have the report furnished. Should satisfactory explanation be not proffered by the employer for its failure/omission/neglect to furnish the enquiry report, that ought to be sufficient for invalidating the proceedings and directing resumption from the stage of furnishing the report. No proof of prejudice for breach of a statutory rule or the principles of natural justice and fair play need be proved, unless there is a waiver, either express or by conduct, to of the right to receive the report. And, it is only in specific and not in all circumstances that proof of 'prejudice' ought to be insisted upon.

53. While concluding our discussion, we repeat what has been observed earlier. This discourse is intended, not to doubt existing points of view, but to contribute to the understanding of the law.



*To prevent misunderstandings and to provide clarity, we wish to make it clear that it would be open for all courts, bound by Article 141 of the Constitution, to decide matters coming up before them on the relevant topic in accordance with what they perceive is the law declared in **B. Karunakar** (supra)."*

We, therefore, do not find any infirmity with the said judgment.

Mr. Shanker Raju, learned Counsel appearing for the Respondents also states that the Appellant has already filed a representation against the inquiry report. It is now for the Respondents to consider the representation and take steps in accordance with law as expeditiously as possible and preferably within a period of six weeks from today.

4. The appeal stands disposed of in the aforesaid terms.

5. It is made clear that this Court has not made any comment or observations on the chargesheet or the inquiry report.

SUBRAMONIUM PRASAD, J

VIMAL KUMAR YADAV, J

OCTOBER 16, 2025/neha