

(2026) 08 OHC CK 1559
In the Orissa High Court, Cuttack Bench
Case No : WA No.577 of 2026

Laxmidhar Majhi	Vs	APPELLANT
State Of Odisha & Ors.		RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:

Odisha Civil Services (Pension) Rules, 1992 — Rule 7
Indian Evidence Act

Citation : (2026) 08 OHC CK 1559

Hon'ble Judges : Harish Tandon, C.J.;Chittaranjan Dash, J

Bench : Division Bench

Advocate : Mr. Sidheswar Mallik, Mr. Sanjib Kumar Swain

Final Decision : Dismissed

Judgement

Chittaranjan Dash, J.

1. By means of the present intra-Court appeal, the Appellant calls in question the judgment and order dated 12.03.2026 passed by the learned Single Judge in W.P. (C.) No.19064 of 2024, whereby while allowing the writ petition in part, the learned Single Judge quashed the order of punishment dated 20.07.2024 on the ground that the departmental enquiry stood vitiated for want of examination of prosecution witnesses and proof of the documents relied upon in support of the charges, but remitted the matter to the disciplinary authority to proceed afresh from the stage of enquiry in accordance with law.

2. The brief facts, shorn of unnecessary details, are that the Appellant, while serving as an Inspector of Supplies under the Food Supplies and Consumer Welfare Department, was served with a memorandum of charges dated 18.12.2020, barely twelve days prior to his retirement on attaining the age of superannuation on 31.12.2020. The charges pertained to alleged lapses in relation to Custom Milled Rice operations during the KMS 2009-10 and 2010-11. The Appellant submitted his written statement of defence denying the

allegations. An Enquiry Officer was thereafter appointed, who submitted his enquiry report holding the charges proved. Acting upon the said report, the disciplinary authority issued a second show cause notice proposing withholding of the Appellant's entire gratuity and thirty per cent of his pension permanently and, upon consideration of his reply, passed the order dated 20.07.2024 imposing the said punishment under Rule 7 of the Odisha Civil Services (Pension) Rules, 1992. Aggrieved thereby, the Appellant instituted W.P.(C.) No.19064 of 2024 challenging the charge memorandum, the enquiry report as well as the consequential order of punishment.

3. Learned counsel for the Appellant contended that the learned Single Judge, despite recording that the departmental enquiry stood vitiated, erred in remitting the matter to the disciplinary authority instead of quashing the entire disciplinary proceeding. It was submitted that the proceeding itself had been initiated after an unexplained delay of nearly a decade in respect of alleged incidents of the years 2009-10 and 2010-11, merely twelve days prior to the Appellant's retirement, and that the learned Single Judge failed to adjudicate the other substantial grounds urged in the writ petition, including the challenge to the delayed initiation of the proceeding and the selective initiation of disciplinary action.

Per contra, learned Additional Government Advocate supported the impugned judgment and submitted that the learned Single Judge rightly interfered only on account of the procedural infirmities which had vitiated the enquiry, while preserving the disciplinary authority's right to hold a fresh enquiry in accordance with law. It was contended that once the enquiry alone was found to be defective, the appropriate course was to set aside the consequential punishment and remit the matter for a de novo enquiry rather than terminate the disciplinary proceeding altogether.

4. Having heard the learned counsels, at the outset, it is apposite to note that the learned Single Judge, upon examining the enquiry report and the materials placed on record, recorded a categorical finding that no prosecution witness had been examined in support of the charges and none of the documents relied upon by the disciplinary authority had been proved in accordance with law. The learned Single Judge further found that the Enquiry Officer proceeded to hold the charges proved despite the complete absence of oral evidence and without affording the Appellant an opportunity to cross-examine any departmental witness or to lead evidence in defence. On the basis of the said findings, the enquiry report as well as the consequential order of punishment were held to be unsustainable.

5. While broadly agreeing with the reasons assigned by the learned Single Judge, we have examined the issues independently. According to us, a departmental enquiry, though not governed by the strict rules of the Indian Evidence Act, must nevertheless conform to the minimum requirements of fairness and natural justice. The disciplinary authority cannot sustain a finding of guilt merely on the

basis of allegations contained in the charge memorandum or unproved documents forming part of the departmental record. Where the charges are disputed, they must be established by leading admissible evidence through the examination of departmental witnesses, with a corresponding opportunity to the delinquent employee to cross-examine such witnesses and adduce evidence in defence. Any enquiry conducted in derogation of these fundamental safeguards stands vitiated.

6. In ***Roop Singh Negi vs. Punjab National Bank & Ors.***, reported in **(2009) 2 SCC 570**, the Hon'ble Supreme Court emphasised that although departmental proceedings are not governed by the strict provisions of the Indian Evidence Act, the charges must nevertheless be established by legal evidence. It was held that documents relied upon by the disciplinary authority must be duly proved and cannot be treated as evidence merely because they form part of the departmental record. The relevant paragraphs are extracted below:

"14. Indisputably, a departmental proceeding is a quasi judicial proceeding. The Enquiry Officer performs a quasi judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the Investigating Officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the Enquiry Officer on the FIR which could not have been treated as evidence."

7. The contours of judicial review in matters arising out of disciplinary proceedings were succinctly delineated by the Hon'ble Supreme Court in ***State Bank of Bikaner and Jaipur vs. Nemi Chand Nalwaya***, reported in **(2011) 4 SCC 584**, wherein it was held that although the High Court does not sit in appeal over findings recorded in a departmental enquiry, interference is justified where the findings are based on no evidence, are perverse, or the enquiry is vitiated by violation of the principles of natural justice. The relevant observations are reproduced below:

"7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide ***B.C. Chaturvedi v. Union of India***¹, ***Union of India v. G. Ganayutham***², ***Bank of***

8. In view of the aforesaid settled legal position, we find no reason to differ from the conclusion of the learned Single Judge in setting aside the enquiry report and the consequential order of punishment. The only surviving question, therefore, is whether the learned Single Judge was justified in remitting the matter to the disciplinary authority to conduct a fresh enquiry in accordance with law, instead of quashing the disciplinary proceeding in its entirety.

9. The principal submission advanced on behalf of the Appellant is that once the enquiry was found to be fundamentally vitiated, the learned Single Judge ought to have quashed the disciplinary proceeding in its entirety instead of granting liberty to the disciplinary authority to proceed afresh from the stage of enquiry. We are unable to accede to the said contention.

10. It is well settled that where an order of punishment is set aside solely on account of procedural infirmities in the conduct of the disciplinary enquiry and not on the merits of the charges, the normal rule is to restore the disciplinary proceeding to the stage at which the defect had occurred, thereby enabling the disciplinary authority to conduct the enquiry afresh in accordance with law. Such a course strikes a balance between ensuring fairness to the delinquent employee and preserving the employer's right to enquire into the alleged misconduct in the manner prescribed by law. The setting aside of an enquiry on procedural grounds does not, by itself, obliterate the disciplinary proceeding or render the charge memorandum non est.

11. The legal position in this regard also stands authoritatively settled by the Constitution Bench of the Hon'ble Supreme Court in **Managing Director, ECIL vs. B. Karunakar**, reported in **(1993) 4 SCC 727**, wherein it was clarified that where an order of punishment is set aside on account of a procedural defect in the disciplinary enquiry, the disciplinary proceeding does not automatically come to an end. The relevant observations are reproduced below:

"When the employee is dismissed or removed from service and the inquiry is set aside because the report is not furnished to him, in some cases the non-furnishing of the report may have prejudiced him gravely while in other cases it may have made no difference to the ultimate punishment awarded to him. Hence to direct reinstatement of the employee with back-wages in all cases is to reduce the Rules of justice to a mechanical ritual. The theory of reasonable opportunity and the principles of natural justice have been evolved to uphold the Rule of law and to assist the individual to vindicate his just rights. They are not incantations to be invoked nor rites to be performed on all and sundry occasions. Whether in fact, prejudice has been caused to the employee or not on account of the denial to him of the report, has to be considered on the facts and circumstances of each case. Where, therefore, even after the furnishing of the report, no different consequence would have followed, it would be a perversion of justice to permit the employee to resume duty and to get all the consequential benefits. It amounts to rewarding the dishonest and the guilty and thus to stretching the concept of justice to illogical and exasperating limits. It amounts to an "unnatural expansion of natural justice" which in

itself is antithetical to justice.”

12. Applying the aforesaid principle to the facts of the present case, we find that the learned Single Judge adopted precisely the course envisaged by the Hon'ble Supreme Court. The punishment order was not set aside on an appreciation of the merits of the charges, nor was any finding returned that the allegations were inherently untenable or incapable of being established. The interference was solely on account of the procedural infirmities which had vitiated the enquiry. In such circumstances, remitting the matter to the disciplinary authority to proceed afresh from the stage of enquiry was the natural and legally sustainable consequence.

13. For all the reasons aforesaid, we find ourselves in complete agreement with the view taken by the learned Single Judge. The challenge mounted by the Appellant is directed only against the consequential order of remand. However, in the facts and circumstances of the present case, the said course was not only permissible in law but was, indeed, the only appropriate course open after the enquiry had been found to be vitiated on account of procedural irregularities.

14. Therefore, the judgment and order dated 12.03.2026 passed by the learned Single Judge in W.P.(C.) No.19064 of 2024 is hereby affirmed. The writ appeal, being devoid of merit, stands dismissed.

FOOTNOTES

1. (1995) 6 SCC 749
2. (1997) 7 SCC 463
3. (1999) 5 SCC 762
4. (2000) 1 SCC 416