

(2018) 05 DEL CK 0211

In the Delhi High Court

Case No : W.P.(C) 5246 OF 2018 & CM 20356 OF 2018

NARENDRA YADAV

APPELLANT

Vs

INDIAN OIL CORPORATION LTD & ORS

RESPONDENT

Date of Decision : 16-05-2018

Acts Referred:

Conduct, Discipline & Appeal Rules, 1980 — Rule 31, 31(11)

Citation : (2018) 05 DEL CK 0211

Hon'ble Judges : SUNIL GAUR

Bench : Single Bench

Advocate : Barun Kumar Sinha, Pratibha Sinha, Paramjeet Benipal, Sumit Benipal, Nikhil Mundija

Final Decision : Disposed Of

Judgement

JUSTICE SUNIL GAUR, J.

1. In the first round of litigation, the challenge to taking on record the documents (Ex.MWE-1, MWE-2 & MWE-3) and letter of 18th November, 2016

was not entertained by this Court vide order of 23rd February, 2018 (Annexure P-18) while relegating petitioner to raise the pleas taken in the writ

petition before Inquiry Officer and it was left open for the Inquiry Officer to consider whether the documents sought to be introduced during the

course of inquiry are admissible or not and what would be its evidentiary value. This consideration by Inquiry Officer had to take place at the

conclusion of the inquiry.

2. Pursuant to order of 23rd February, 2018 (Annexure P-18), petitioner had filed a Representation before Inquiry Officer, which stands declined vide

impugned order of 4th May, 2018 (Annexure P-1) wherein it is noticed that the objections were raised by petitioner to the exhibition of the aforesaid

documents and twenty one hearings were provided to petitioner to cross-examine the witness in respect of these documents, but petitioner has failed to do so.

3. Learned counsel for petitioner submits that the witness has been cross-examined on other aspects, but not in respect of these documents as these documents cannot be taken on record in view of Rule 31 of Conduct, Discipline & Appeal Rules, 1980 (hereinafter referred to as "the Rules of 1980") of respondents. To submit that an employee should be treated fairly in the departmental proceedings and that the Inquiry Officer has to act in a quasi judicial manner, reliance is placed upon Supreme Court's decisions in *Roop Singh Negi v. Punjab National Bank and Others*, (2009) 2 SCC 570 and *State of Uttar Pradesh and Others v. Saroj Kumar Sinha*, (2010) 2 SCC 772. Learned counsel for petitioner submits that no opportunity to address arguments has been provided to petitioner by Inquiry Officer. Thus, it is submitted that the impugned order deserves to be set aside and it be directed that the aforesaid documents be taken off the record.

4. On the contrary, learned counsel for respondents supports the impugned order and submits that the inquiry proceedings have been concluded and the inquiry report is awaited.

5. Upon hearing and on perusal of impugned order of 4th May, 2018 (Annexure P-1), the aforesaid Rules of 1980 and the decisions cited, I find that when a departmental inquiry is conducted against a public servant, it cannot be treated as a casual exercise. The inquiry proceedings cannot be conducted with a closed mind. The Inquiry Officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a public servant is treated fairly in departmental proceedings which may culminate in imposition of punishment including dismissal/removal from service.

6. In the facts and circumstances of this case, I find that vide impugned order (Annexure P-1), ample opportunity has been afforded to petitioner to cross-examine the witness in respect of the documents, referred to above, but petitioner has failed to do so, without any valid justification. Reference to Rule 31 of the aforesaid Rules of 1980 does not exclude introduction of fresh material. However, as per sub-Rule 11 of Rule 31 of the aforesaid

Rules of 1980, new material can be introduced during the course of inquiry, but with the leave of the inquiring authority. In the instant case, Inquiry

Officer has permitted respondent to tender the aforesaid documents and has granted opportunity to petitioner to cross-examine the witness. Without

any justification, petitioner has failed to cross-examine the witness on the aforesaid documents. Reliance placed upon decisions in Roop Singh Negi

(supra) and Saroj Kumar (supra) does not justify refusal to cross-examine the witness on the documents produced by the witness as this Court vide

order of 23rd February, 2018 (Annexure P-18) had clarified that the admissibility and reliability of these documents would be considered at the

conclusion of the inquiry. Meaning thereby, exclusion of these documents has been already negated by this Court vide order of 23rd February, 2018.

7. In light of the aforesaid, I find no justification to interfere with impugned order. However, in the interest of justice, let one effective opportunity be

provided to petitioner to cross-examine the witness in respect of aforesaid documents and to address arguments if Inquiry Report has not been already

tendered to the Disciplinary Authority.

8. With the aforesaid clarification, this petition and the application are disposed of. Copy of this order be given dasti to learned counsel for the parties.