

(2025) 12 CAT CK 1687

**In the Central Administrative Tribunal, Central Administrative Tribunal
Cuttack Bench, Cuttack**

Case No : Original Application No. 260, 00469 Of 2020

Siba Prasad Mishra

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 10-12-2025

Acts Referred:

Citation : (2025) 12 CAT CK 1687

Hon'ble Judges : Sudhi Ranjan Mishra, Member (J); Pramod Kumar Das, Member (A)

Bench : Division Bench

Advocate : N.R. Routray, D. Sethy

Final Decision : Allowed

Judgement

Pramod Kumar Das, Member (A)

1. By filing this instant OA, the applicant has prayed to quash the Memorandum of charge dtd. 22.07.2019, Inquiry Report dated 06.02.2020, order of punishment dated 23.03.2020 passed by the Disciplinary Authority reducing his pay to lower level of pay in Sr.TC in Level-5 @ 35,900/- for a period of two years with Cumulative Effect., order of Appellate Authority dated 02.06.2020 and the order of the Revisional Authority dated 08.07.2020, upholding the punishment imposed by the DA, and consequently to direct the Respondents to restore him to his original pay with all consequential and financial benefits.

2. Contesting and objecting the case of the applicant, respondents filed their counter and the applicant has also filed the rejoinder.

3. In course of hearing, Ld. Counsel for the applicant led much focus in support of the relief that Sri A.K.Mallia, who was working under the Chief Vigilance Officer of the Zone, ought not to have been appointed as Inquiry Officer and, therefore, the inquiry report and the further action taken thereto are not sustainable being de hors the rules and law. In this regard, he has also placed

reliance on the order dated 19.06.2025 in OA 98/2020 (J.Krishna Kumari Vs UOI & Ors.).

4. Ld. Counsel for the respondents did not dispute the fact that Sri Mallia was not working under the Chief Vigilance Officer. He has submitted that the applicant did not question the appointment of the IO starting from his appointment till conclusion by imposition of punishment nor has he pleaded as to how he was prejudiced by such appointment of Sri Mallia as IO. However, it is not the case of the respondents that the order of this Bench dated 19.06.2025 in OA 98/2020 has been challenged before any higher forum or any such application has been filed seeking review of the said order.

5. After due consideration of the arguments, we have perused the records. We have also gone through the order of this Tribunal dated 19.06.2025 in OA 98/2020 in the case of J.Krishna Kumari (supra). We find that in the said case, Sri A.K.Mallia was also appointed as Inquiry Officer and this Bench after taking note of the decision of the Hon'ble Apex Court in the case of UOI & Ors Vs Prakash Kumar Tandon & Ors, (2009) 2 SCC 541, and the decision of the coordinate Allahabad Bench of the Tribunal in OA No. 403/2016, held as under:

"7. Even though the respondents in their objection to affidavit had submitted that Mr. A K Mallia, Enquiry Officer is not working under Vigilance Department but it is seen from the document annexed by them R/1 (Railway Vigilance Organization and its Role No. 103.4) that at Role 103.2 it is stated that at the level of Zonal Railways, the Vigilance Organization is headed by the Senior Deputy General Manager (SDGM) who is also designated as the Chief Vigilance Officer of the Zonal Railway. Mr. A K Mallia, Inquiry Officer as admitted by the respondents in their objection to additional affidavit is working directly under SDGM/ECOR/BBS.

8. In view of the above discussions and settled position of law quoted above, since Mr. A K Mallia, Inquiry Officer is working under the SDGM/ECOR/BBS who is the Chief Vigilance Officer for the zone, hence he cannot be the inquiry officer in the said inquiry against the applicant. The decision rendered by CAT Allahabad Bench in OA No. 430/2016 is squarely applicable in this case and accordingly the appointment of Inquiry Officer and inquiry report is quashed and set aside. The resultant punishment order of the disciplinary authority, appellate authority and revisional authority are also set aside. The respondents are at liberty to proceed in the inquiry from the stage of appointment of Inquiry Officer by appointing Competent Officer from department other than Vigilance Department. (emphasis supplied)

6. We also find that taking into consideration the aforesaid decision, this Bench of the Tribunal passed similar order on 19.08.2025 in OA No. 711/2023 (Surendra Nath Behera Vs UOI & Ors), an excerpt from it is quoted as under:

"8. Since in the present case also the disciplinary proceeding against the applicant has been initiated in pursuance to vigilance inquiry, the facts being

similar to OA No. 98/2020 the case is squarely applicable to this case. Further in the decision of Hon'ble Apex Court and CAT, Allahabad Bench it has been clearly held that in case inquiry is initiated after raid by the vigilance department, IO should not be from vigilance department. Accordingly the appointment of Inquiry Officer and inquiry report is quashed and set aside. The resultant punishment order of the disciplinary authority, appellate authority and revisional authority are also set aside. The respondents are at liberty to proceed in the inquiry from the stage of appointment of Inquiry Officer by appointing Competent Officer as per rules."

7. Ld. Counsel for the respondents to distinguish and differentiate of the decision rendered by this Bench has submitted that Sri A.K.Mallia, was no more working in Vigilance Department when he conducted the inquiry being nominated by the competent authority/DA, which was not the fact in earlier case. Therefore, his appointment as IO cannot be faulted with. Ld. Counsel for the applicant objected and contested the above stand by stating that it is not the case of the respondents that he did not deal with the matter when he was in Vigilance Department of the Railway and, therefore, even if he was not in department when he conducted the inquiry is hardly of any matter to nullify the sound principle of law that one cannot be judge of his own cause. In this regard, it may be noted that *Nemo judex in causa sua*, i.e. "no one should be a judge in his own cause", is a cardinal rules of natural justice. Since, the respondents did not deny that Sri Mallia dealt with the allegation against the applicant while he was working in the Vigilance Cell of the Railways, though the applicant has specifically raised that he dealt with the matter while in Vigilance Cell. Because he has been transferred from the Vigilance Cell, the principle of bias in law cannot be taken out if he is allowed to act as an Inquiry Officer. Further, what has been dealt into while he was in Vigilance Cell shall also be dealt into in the capacity of IO, which amounts to judging of his own action. Hence, the appointment of Sri Mallia as Inquiry Officer is in violation of principles of natural justice and cardinal principle that no one should be a judge in his own cause. Hence, this stand of the respondents is overruled.

8. It is settled principles of law that judicial pronouncement should be constant. The issue of consistency in judicial proceedings is related to fairness and impartial procedure. Further, as per doctrine of precedence, the order of Co-ordinate Bench is binding and the leading decision of the Hon'ble Apex Court to the above effect is rendered in the case of *S.I.Rooplal & Anr. Vs. Lt. Governor through Chief Secretary, Delhi & Ors*, AIR 2000 SC 594. As discussed above, we see no such distinct feature to take a contrary view than the view already taken by this Bench in earlier cases referred to above. Thus, applying the well settled doctrine of precedence, the report of Inquiry Officer dated 06.02.2020 is hereby annulled/quashed.

9. We do remember the decision of the Hon'ble Apex Court in the case of *State of Punjab Vs. Davinder Pal Singh Bhullar and others connected with Sumedh Singh*

Saini Vs. Davinder Pal Singh Bhullar and others, (2011) 14 SCC 770, wherein the Hon'ble Apex Court held that if initial action is not in consonance with law, all subsequent and consequential proceedings would fall through for the reason that illegality strikes at the root of the order. In such a fact-situation, the legal maxim "sublato fundamento cadit opus" meaning thereby that foundation being removed, structure/work falls. This doctrine also comes into play and applies on all scores in the case in hand. Hence, by applying the above settled principle, the order of punishment dated 23.03.2020 passed by the Disciplinary Authority, order of Appellate Authority dated 02.06.2020 and the order of the Revisional Authority dated 08.07.2020 are also quashed. However, quashing of the report of the IO and the order of the DA shall not preclude the respondents to proceed in the inquiry from the stage of appointment of the IO other than from Vigilance Department. Insofar as the restoration of his pay is concerned, the same shall depend on the final decision of the DA.

10. In the result, the OA stands allowed to the extent stated above. No costs.