



DEPARTMENTAL PROCEEDINGS AND JUDICIAL REVIEW: A CONCEPTUAL NOTE WITH REFERENCE TO SUPREME COURT JUDGEMENTS

Dr. Arunava Praharaj¹, Prof. (Dr.) Anupam Parua²

Assistant Professor¹, Professor & Principal²

Department of Commerce, Subarnarekha Mahavidyalaya, Jhargram, WB, India¹

**Department of Commerce, Gourav Guin Memorial College, Paschim Medinipur, WB,
India²**

Abstract

Departmental proceedings, alternatively known as disciplinary proceedings aim at maintaining discipline in an organisation, ensuring administrative efficiency and taking action against breach or negligence or dereliction of duty by employees. Employer takes the role of disciplinary authority and by observing due compliance of applicable service rules and principles of natural justice proceeds with the departmental proceedings which may culminate into inflicting punishment to the charged / delinquent employee for his proved misconduct. Departmental proceedings, being in the nature of quasi-judicial proceedings, necessitate procedural propriety, free from arbitrariness, application of mind, providing opportunity of fair hearing, passing of reasoned order in addition to compliance to legal provisions under applicable service rules and principles of natural justice. Unjustified and illegal administrative order having civil consequences may be appealed against with the appellate authority and in some case may be subjected to judicial review by jurisdictional High Court under Article 226 of the Constitution of India or by the Supreme Court of India under Article 32 of the constitution. Under judicial review the appropriate court is not to appreciate or reappreciate facts or evidence or to evaluate the correctness of the decision taken by the disciplinary authority, rather it is duty bound to be restricted to examine the decision-making process and resultant administrative order in the light of parameters like jurisdictional overreach, procedural propriety, patent illegality, disproportionate punishment etc.

Key Words: Departmental Proceedings, Departmental Enquiry, Judicial Review, Principles of Natural Justice

1. INTRODUCTION

Departmental proceeding is basically internal disciplinary action taken by an employer against an employee who is charged for some misconduct. This term is closely associated with Government agencies and public sector organisations. It is a formal and structured process undertaken by the employer or disciplinary authority to investigate or enquire into and to inflict punishment, if required with respect to certain misconduct alleged against employee or employees of the concern. Prominent purposes of such proceedings

are maintenance of work place discipline, ensuring administrative control and efficiency, disallowance of breach / negligence / dereliction of duty and so on,

The ultimate objective of departmental proceedings is to take decision as to whether any employee is required to be disciplined or be punished by way of disciplinary measure and for that alternative coinage of departmental proceedings is disciplinary proceedings. As such, these terms are used interchangeably. In departmental proceedings on one side there is the charged employee who is not generally acquainted with legal world and on the other side there is the employer or disciplinary authority which may also not be very adept in handling legal issues associated with the whole process of departmental proceedings. Law requires that there must be a good and effective balance between the interests of the employees and employer. It is also trite in law that justice is not only to be done it must be seen to be done.

The disciplinary authority has an objective duty and adjudicatory responsibility to consider and impose proper penalty consistent with the magnitude of gravity of the misconduct. Each case must be considered in the light of its own.

2. PROCESS FLOW CHART OF DEPARTMENTAL PROCEEDINGS

The procedure is a very detailed one and involves the following steps. In departmental or disciplinary proceeding the employer takes the role of disciplinary authority. It is well settled that a disciplinary proceeding comprises of several distinct stages namely its initiation, the conduct of an enquiry into the charges against the delinquent employee and the issuance of a final order by the disciplinary authority [Sagar Sengupta v State of West Bengal & Ors.in WP 4221 of 2023 in Calcutta High Court]

2.1. Receiving Allegations of Misconduct Against the Employee

Legally speaking, departmental proceeding initiates with the framing of charge sheet against the charged / delinquent employee. Steps prior to that may only be thought of as the preparation to probable disciplinary proceedings. During this first stage the disciplinary authority first get the information or knowledge of misconduct of any employee. Allegations of misconduct against any employee should be supported by documents and evidences. Otherwise, the very foundation of the proceedings would be weak and it will be difficult to substantiate the allegations. This stage is the probability stage of the entire process.

2.2. Holding of Preliminary Enquiry

On receiving information regarding alleged misconduct of an employee the disciplinary authority may take cognisance of these and decide to hold a preliminary enquiry which is also known as fact-finding enquiry.

The preliminary enquiry may be useful only to take a prima facie view, as to whether there can be some substance in the allegation made against an employee which may warrant a regular enquiry. [Nirmala J. Jhala v. State of Gujarat and Another - (2013) 5 SCR 200: Para 25 – 229H]

Generally, therefore a preliminary enquiry is usually held to determine whether a prima facie case for a formal departmental enquiry is made out, and it is very necessary that the two should not be confused. [Champaklal Chimanlal Shah v The Union of India – (1964) 5 S.C.R. 190: 205-207]

The preliminary enquiry has nothing to do with the enquiry conducted after the issue of the charge-sheet. The former action would be to find whether disciplinary enquiry should be initiated against the delinquent. After full-fledged enquiry was held, the preliminary enquiry had lost its importance (and, whether preliminary enquiry was held strictly in accordance with law or by observing principles of natural justice or nor, remains of no consequence). [Narayan Dattatraya Ramteerthakhar v. State of Maharashtra and Ors. – (1996) Supp. 8 SCR 939]

The preliminary inquiry is not governed by the provisions of Article 311 (2) of the Constitution of India. Preliminary inquiry may be held ex-parte, for it is merely for the satisfaction of the government though usually for the sake of fairness, an explanation may be sought from the government servant even at such an inquiry. But at that stage, he has no right to be heard as the inquiry is merely for the satisfaction of the government as to whether a regular inquiry must be held. [Nirmala J. Jhala v. State of Gujarat and Another - (2013) 5 SCR 200: 228 D-G]

Preliminary enquiry can be in two stages. There can be a summary investigation to find out if the allegations made against the government servant have any substance. Such investigation or inquiry is followed by a detailed or fact-finding inquiry where final decision is taken whether to initiate disciplinary proceedings. The first preliminary inquiry may be in the shape of secret inquiry and the other, of an open inquiry. In the alternative, when complaints are received, the authority may peruse the records to satisfy itself if a more detailed preliminary inquiry be made. [P. R. Nayak v Union of India - (1972) S.C.R. 695: 711 A-B]

The end result of this stage in departmental proceedings is the Preliminary Enquiry / Fact-Finding Enquiry Report.

2.3. Preliminary Enquiry Report and its Effect

On getting the preliminary enquiry report, disciplinary authority has to objectively consider the material brought on record through preliminary or fact-finding enquiry. At this stage the disciplinary authority has to take decision regarding necessity of holding departmental enquiry. Disciplinary authority may drop the matter at this stage if veracity of allegation is not present to any extent and when it is basically a case of 'no veracity'. Herein the disciplinary authority has to apply its mind as to whether in the due course formal departmental enquiry shall be held or there exists a contingency for such enquiry. This is the stage of contemplation of departmental enquiry or the possibility stage. During this stage the disciplinary authority may seek explanation, which sometime may take the form of show cause notice, from charged employee in respect of certain allegations. Employees reply thereto should be considered in the preparation of preliminary enquiry report.

2.4. Issuance of Charge Memo / Charge Sheet

If in the previous stage it is decided to have a formal departmental enquiry then one charge memo or charge sheet is to be formed either by the disciplinary authority or by any other authority on its behalf. Charge memo served upon delinquent employee should be accompanied by (a) Statement of Imputation detailing specific charge or charges; (b) List of documents to be relied upon by the disciplinary authority; and (c) List of witnesses by which each article of charge is proposed to be sustained. Here it is to be remembered that all the documents to be relied upon must be marked. If any particular format is given in relevant service law for the employee, then the charge memo is to be in that format. As for example, charge memo against any confirmed teacher of any college in West Bengal is to be prepared in Appendix – C format mentioned in West Bengal College Teachers (Security of Service) Rules, 1977 framed under the West Bengal College Teachers (Security of Service) Act, 1975.

Where a delinquent is served a charge-sheet without giving specific and definite charge and no statement of allegation is served along with the charge sheet, the enquiry stands vitiated as having been conducted in violation of the principles of natural justice. [Union of India & Ors. v Gyan Chand Chattar – (2009) 10 S.C.R. 124: 140 G-H]

Court held that even in a domestic enquiry, the charge must be clear, definite and specific as it would be difficult for any delinquent to meet the vague charges. Evidence adduced should not be perfunctory even if the delinquent does not take the defence or make a protest against that the charges are vague, that does not save the enquiry from being vitiated for the reason that there must be fair-play in action, particularly, in respect of an order involving adverse or penal consequences. [Swai Singh v State of Rajasthan – (1986) 2 S.C.R 957]

2.5. Reply of the Employee to the Charge Sheet

Delinquent employee is required to submit his Written Statement of Defence. Proof of such defence may be called for. Reply must be specific and distinct charge wise. In reply to charges contained in charge memo, the delinquent in addition to contradicting, disputing and denying the veracity of charges may tender extenuating circumstances and / or exculpatory evidences to weaken the charges and / or inculpatory evidences.

2.6. Scrutiny of the Reply by the Disciplinary Authority

If the delinquent employee, in his reply to charge / charges mentioned in the Charge Sheet accepts / admits the charges then there is no need for enquiry and to call for evidence / witnesses, to afford an opportunity to the petitioner to cross-examine the witnesses and so on. In such case, there is no need to appoint Enquiry

Officer. But charges against the delinquent are still to be proved by the disciplinary authority if it contemplates any action against him. If the delinquent employee does not admit or accept and in the contrary contradicts, disputes or denies charges then either the disciplinary authority may conduct enquiry of its own or appoint Enquiry Officer to make regular departmental enquiry.

2.7. Appointment of the Enquiry Officer & Enquiry

The purpose of holding an enquiry against any person is not only with a view to establish the charges levelled against him or to impose a penalty, but is also conducted with the object of such an enquiry recording the truth of the matter, and in that sense, the outcome of an enquiry may either result in establishing or vindicating his stand, and hence result in his exoneration. Therefore, fair action on the part of the authority concerned is a paramount necessity. [Shri Anant R. Kulkarni v. Y.P. Education Society and Ors. – (2013) 6 S.C.R. 1124: 1142 D]

this Court has observed that the law can be summarized that an enquiry is to be conducted against any person giving strict adherence to the statutory provisions and principles of natural justice and the charges should be specific, definite and giving details of the incident which formed the basis of charges and no enquiry can be sustained on vague charges. [Union of India & Ors. v Gyan Chand Chattar – (2009) 10 S.C.R. 124: 141 C-D]

It is the responsibility of the disciplinary authority to carry out enquiry before contemplating any adverse order or punishment for alleged guilt of the delinquent. However, the task of enquiry may be delegated to Enquiry Officer to hold enquiry on behalf of the disciplinary authority, to assist the disciplinary authority and to give report of enquiry authority with respect to proving of charge of misconduct against the employee.

Enquiry must be confined to materials brought on record by the parties in a manner known to law. [State of Uttar Pradesh v Ram Prakash Sing – 2025 INSC 555]

Enquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/ Government. His function is to examine the evidence presented by the department, even in the absence of the delinquent official to see as to whether the un rebutted evidence is sufficient to hold that the charges are proved. If, no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents. [State of U. P. and Ors. v Saroj Kumar Sinha – (2010) 2 S.C.R. 326 – 344G-H]

Enquiry officer performs quasi-judicial function who upon analysing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of material on record. While doing so, he is to discuss the charges on the basis of each allegation, and is to note separate conclusion with respect to proving each charge; his findings are not to be generalised and conclusory manner; he has to explain the evidence which was considered to prove charges. [M.V. Bijlani v Union of India and Ors. - (2006) 3 S.C.R. 896: 906 G-H, 907 A]

Generally, enquiry officer is required to call for evidence / witnesses of disciplinary authority (Prosecution Witnesses – PWs) from the Presenting Officer. He is to give the charged officer the opportunity to cross examine the prosecution witnesses. At the sametime, he may allow charged employee to present witnesses in his defence (Defence Witnesses – DWs).

2.8. Appointment of Presenting Officer

Presenting Officer is appointed to collect documents, evidences, etc. to be used in departmental enquiry on behalf of the disciplinary authority. He has to present these to the Enquiry Officer.

.....where a 'Presenting Officer' has been appointed by the Disciplinary Authority, such Officer shall present the case in support of the articles of charge. Conversely, what logically transpires from the aforesaid is that, where no presenting officer has been appointed, the duty or role to present the case in support of the articles of charge falls back on the Disciplinary Authority or the Inquiry Authority as the case may be. [Union of India and Others v Dilip Paul – 2023 INSC 975 / (2023) 13 S.C.R. 473: Para 69]

2.9. Legal Assistance for Defence

Accustomed as we are to the practice in the courts of law to skilful handling of witnesses by lawyers specially trained in the art of examination and cross-examination of witnesses, our first inclination is to think that a fair enquiry demands that the person accused of an act should have the assistance of some person, who even if not a lawyer may be expected to examine and cross-examine witnesses with a fair amount of skill. We have to remember however in the first place that these are not enquiries in a court of law. It is necessary to remember also that in these enquiries, fairly simple questions of fact as to whether certain acts of misconduct were committed by a work man or not only fall to be considered, and straight forward questioning which a person of fair intelligence and knowledge of conditions prevailing in the industry will be able to do will ordinarily help to elicit the truth. It may often happen that the accused work man will be best suited, and fully able to cross-examine the witnesses who have spoken against him and to examine witnesses in his favour. It is helpful to consider in this connection the fact that ordinarily in enquiries before domestic tribunals the person accused of any misconduct conducts his own case. Rules have been framed by Government as regards the procedure to be followed in enquiries against their own employees. No provision is made in these rules that the person against whom an enquiry is held may be represented by anybody else. When the general practice adopted by domestic tribunals is that the person accused conducts his own case, we are unable to accept an argument that natural justice demands that in the case of enquiries into a charge sheet of misconduct against a workman he should be represented by a member of his Union. Besides it is necessary to remember that if any enquiry is not otherwise fair, the workman concerned can challenge its validity in an industrial dispute. [Kalindi & Others v. Tata Locomotive & Engineering Co. Ltd.: (1960) 3 SCR 407]

..... the right to be represented by a counsel or agent of one's choice is not an absolute right but one which can be controlled, restricted, or regulated by law, rules, or regulations. However, if the charge is of severe and complex nature, then the request to be represented through a counsel or agent should be considered. The above proposition flows from the entitlement of fair hearing, which is applicable in judicial as well as quasi-judicial decisions. [The Chairman, State Bank of India and Another v M. J. James – (2021) 7 S.C.R. 373: 391 D]

2.10. Recording of Evidence

Following the judgment given by the Supreme Court in Union of India & Ors. v Mudrika Singh (2011) 11 S.C.R. 1106 following path may be identified with respect to recording of evidence.

- (a) The officer ordering the record of evidence may either prepare the record of evidence himself or detail another officer to do so;
- (b) The witnesses shall give their evidence in the presence of the accused and the accused shall have right to cross-examine all witnesses who give evidence against him;
- (c) After all the witnesses against the accused have been examined, he shall be cautioned in the following terms: “You may make a statement if you wish to do so, you are not bound to make one and whatever you state shall be taken down in writing and may be used in evidence.” After having been cautioned in the aforesaid manner whatever the accused states shall be taken down in writing.
- (d) The accused may call witnesses in defence and the officer recording the evidence may ask any question that may be necessary to clarify the evidence given by such witnesses.
- (e) All witnesses shall give evidence on oath or affirmation: Provided that, no oath or affirmation shall be given to the accused nor shall he be cross-examined.
- (f) The statements given by witnesses shall ordinarily be recorded in narrative form and the officer recording the evidence may, at the request of the accused, permit any portion of the evidence to be recorded in the form of question and answer. Witnesses shall sign their statements after the same have been read over and explained to them.

(g) Where a witness cannot be compelled to attend or is not available or his attendance cannot be procured without an undue expenditure of time or money and after the officer recording the evidence has given a certificate in this behalf, a written statement signed by such witness may be read to the accused and included in the record of evidence.

(h) After the recording of evidence is completed, the officer recording the evidence shall give a certificate in following form: “Certified that the record of evidence ordered by... .. xxxxx ...
.....was made in the presence and hearing of the accused and the provisions of rule have been complied with”.

After completion of recording evidence and testimony of the prosecution witness, the charged employee has the right to cross examine the prosecution witness. Additionally he has the right to tender defence witness in his favour.

..... cross-examination is an integral part of the principles of natural justice, and a statement recorded behind back of a person wherein the delinquent had no opportunity to cross-examine such persons, the same cannot be relied upon. [Ayaubkhan Noorkhan Pathan_v The State of Maharashtra & Ors. – (2012) 10 S.C.R. 994: 1020H]

If charged employee makes himself unavailable in departmental enquiry ever after being duly served with notice for attendance in the proceedings, he would clearly lose the benefit of cross-examination of the witnesses. But nonetheless in order to establish the charges the Department is required to produce the necessary evidence before the inquiry officer. This is so as to avoid the charge that the inquiry officer has acted as a prosecutor as well as a judge. [State of U. P. and Ors. V Saroj Kumar Sinha – (2010) 2 S.C.R. 326 - 344D-F]

..... no materials can be relied upon to establish a contested fact which are not spoken to by persons who are competent to speak about them and are subjected to cross-examination by the party against whom they are sought to be used. [Bareilly Electricity Supply Co. Ltd. v. The Workmen & Ors: (1972) 1 S.C.R. 241]

Evidence tendered by witnesses must be recorded in the presence of the delinquent employee, he should be given opportunity to cross examine the witnesses and no document should be relied on by the prosecution without giving copy thereof to the delinquent - all these basic principles of fair play have their root in such Act. [State of Uttar Pradesh v Ram Prakash Singh: 2025 INSC 555 – Para 14]

Enquiry Officers often put questions to witnesses in such proceedings in order to discover the truth. Indeed, it may be necessary to do such direct questioning in certain circumstances.

2.11. Findings and Report of the Enquiry Officer

..... an officer conducting an enquiry has a duty to arrive at findings in respect of the charges upon taking into consideration the materials brought on record by the parties. It has also been held therein that any evidence collected during investigation by an investigating officer against the accused by itself could not be treated to be evidence in the disciplinary proceedings.[Roop Singh Negi v. Punjab National Bank and Others – (2008) 17 S.C.R. 1476: 1486 A-B]. After arriving at findings enquiry officer has to prepare Enquiry Report for consideration of disciplinary authority.

Enquiry report must be reasoned. Otherwise, the delinquent will be deprived of the right to represent against the findings in the report which is also a part of the reasonable opportunity of being heard. Reasons in any report or order is the manifestation of the mental process involved. If reasons are mentioned in enquiry report then scrutiny may be made as to whether there is logical nexus between materials and decision or it is simply non-application of mind on the part of the enquiry officer and is the result of his ipse dixit.

Enquiry report is not merely an internal document. It must be supplied to the delinquent. Whether the delinquent employee asks for the report or not, the report has to be furnished to him. Failure of the employee to ask for report is not to be construed as waiver of his right. The delinquent employee has the right to receive enquiry report notwithstanding the nature of punishment. Statutory rules, if any, which deny the report to the employee are against the principles of natural justice and therefore, invalid. Employee is

entitled to report even if the rules do not permit furnishing of the report or are silent on the subject. Effect of non-furnishing of enquiry report to delinquent employee on the order of punishment and relief to be granted in such cases depends on prejudice caused to the employee. If non-supply causes real prejudice, the report must be provided to the delinquent. [T. Takano v SEBI & Anr – (2022) 16 S.C.R. 212 & Managing Director, ECIL, Hyderabad Etc. Etc. v. B. Karunakar and Ors. Etc. Etc. – (1993) Supp 2 S.C.R 576]

In case the disciplinary authority disagrees with the findings returned by the inquiry authority, it would, along with the inquiry report forward its own tentative reasons for disagreement with the findings of the inquiry authority calling upon the delinquent employee to submit his representation/response to the disciplinary authority. [S. Janaki Iyer v Union of India & Ors – 2025 INSC 742: Para 28]

2.12. Show Cause Notice to the Delinquent Employee & Reply to Enquiry Report

Employee's reply to the enquiry report and consideration of such reply by the disciplinary authority also constitute an integral part of such inquiry. After enquiry the issuance of notice of show cause against the proposed penalty is to be effected. Reply to the notice by the delinquent employee is to be considered by the disciplinary authority. [Managing Director, ECIL, Hyderabad Etc. Etc. v. B. Karunakar and Ors. Etc. Etc. – (1993) Supp 2 SCR 576]

The fundamental purpose behind the serving of Show Cause Notice is to make the noticee understand the precise case set up against him which he has to meet. This would require the statement of imputations detailing out the alleged breaches and defaults he has committed, so that he gets an opportunity to rebut the same. Another requirement,, is the nature of action which is proposed to be taken for such a breach. That should also be stated so that the noticee is able to point out that proposed action is not warranted in the given case, even if the defaults/ breaches complained of are not satisfactorily explained. [Gorkha Security Services v Govt. of NCT of Delhi & Ors. – (2014) 13 S.C.R. 617: 632 D-F]

To put it otherwise, we are of the opinion that in order to fulfil the requirements of principles of natural justice, a show cause notice should meet the following two requirements viz: i) The material/ grounds to be stated on which according to the Department necessitates an action; ii) Particular penalty/action which is proposed to be taken. We may hasten to add that even if it is not specifically mentioned in the show cause notice but it can be clearly and safely be discerned from the reading thereof, that would be sufficient to meet this requirement. [Gorkha Security Services v Govt. of NCT of Delhi & Ors. – (2014) 13 S.C.R. 617:633 A-C]

We are, therefore, of the opinion that it was incumbent on the part of the Department to state in the show cause notice that the competent authority intended to impose such a penalty, so as to provide adequate and meaningful opportunity to the appellant to show cause against the same. However, we may also add that even if it is not mentioned specifically but from the reading of the show cause notice, it can be clearly inferred that such an action was proposed, that would fulfil this requirement. [Gorkha Security Services v Govt. of NCT of Delhi & Ors. – (2014) 13 S.C.R. 617:635 G-H]

2.13. Penalty Proposed

Penalty proposed must be within the ambit of the applicable service rules for the delinquent and also it should not be disproportionate or be such as to shock the conscience of appellate authority in the first place and writ court thereafter.

It is well settled that when a Statute or a Statutory Rules prescribed a penalty for any act or omission, no other penalty not contemplated in the Statute or a Statutory Rules can be imposed. It is well settled that when Statute requires a thing to be done in a particular manner, it is to be done only in that manner. [State of Madhya Pradesh v. Centre for Environment Protection Research and Development & Ors. [2020] 12 S.C.R. 1139 - Para 50]

Undoubtedly, in a civilized society governed by rule of law, the punishment not prescribed under the statutory rules cannot be imposed. Principle enshrined in Criminal Jurisprudence to this effect is prescribed in legal maxim nulla poena sine lege which means that a person should not be made to suffer penalty except for a clear breach of existing law. Holding departmental proceedings and recording a finding of guilt against any delinquent and imposing the punishment for the same is a quasi-judicial function and not administrative

one. Imposing the punishment for a proved delinquency is regulated and controlled by the statutory rules. Therefore, while performing the quasi-judicial functions, the authority is not permitted to ignore the statutory rules under which punishment is to be imposed. The disciplinary authority is bound to give strict adherence to the said rules. the order of punishment being outside the purview of the statutory rules is a nullity and cannot be enforced against the appellant. [Vijay Singh v. State of U.P. & Ors. [2012] 2 S.C.R. 875: Para 16 & Para 11]

2.14. Final Order

On obtaining the findings and enquiry report from the enquiry officer and after due consideration of these and also duly considering the submission made by the delinquent as reply to the enquiry report the disciplinary authority passes the final order of punishment.

It has been held that the face of an order passed by a quasi-judicial authority or even by an administrative authority affecting the rights of parties must speak. The affected party must know how his case or defence was considered before passing the prejudicial order.

Further, it is well settled that if the disciplinary authority accepts the findings recorded by the enquiry officer and passes an order, no detailed reasons are required to be recorded in the order imposing punishment. The punishment is imposed based on the findings recorded in the enquiry report, as such, no further elaborate reasons are required to be given by the disciplinary authority. [Boloram Bordoloi v Lakhimi Gaolia Bank – (2021) 1 S.C.R. 858: 864 B-D]

it is a well-known principle that justice should not only be done but should also appear to be done. Unreasoned conclusions may be just but they may not appear to be just to those who read them. Reasons conclusions, on the other hand, will have also the appearance of justice. [Woolcombers Of India Ltd. v Woolcombers Workers Union and Another -(1974) 1 S.C.R. 504: 507 D]

3. NATURE OF DEPARTMENTAL PROCEEDINGS

3.1. Quasi-Judicial Nature of Disciplinary Proceedings & Degree of Proof Required

Holding disciplinary proceedings against a government employee and imposing a punishment on his being found guilty of misconduct under the statutory rules is in the nature of quasi-judicial proceedings. [Mohd. Yunus Khan v State of U.P. and Ors. – (2010) 12 S.C.R. 448: 464 B]

Holding disciplinary proceedings and recording a finding of guilt against any delinquent and imposing the punishment for the same is a quasi-judicial function and not administrative one. [Vijay Singh v State of U. P. & Ors. – (2012) 2 S.C.R. 875]

It is to be seen that the disciplinary proceedings are initiated to enquire into the alleged misconduct of an employee and come to a fair finding of fact with regard to the misconduct alleged to have been conducted by the employee. The employer is expected in the disciplinary proceeding to bring the best available evidence to prove the charge of misconduct against an employee. [Sachin Kumar & Ors. v Union of India & Ors – 2026:AHC:81720 – WRIA No. 38777 of 2015 in Allahabad High Court: Para 25]

..... the disciplinary proceedings are not a criminal trial, and in spite of the fact that the same are quasi-judicial and quasi-criminal, doctrine of proof beyond reasonable doubt, does not apply in such cases, but the principle of preponderance of probabilities would apply. The court has to see whether there is evidence on record to reach the conclusion that the delinquent had committed a misconduct. However, the said conclusion should be reached on the basis of test of what a prudent person would have done. [Nirmala J. Jhala v State of Gujarat & Anr. – (2013) 5 S.C.R. 200: 216 A-B]

In disciplinary proceedings, "preponderance of probability" is the legal standard of proof used to determine if an employee is guilty of misconduct. It means that, based on the evidence presented, it is more likely than not that the alleged incident occurred. The decision is to be based on a careful weighing of all available facts and circumstances. The scales are to be perfectly balanced and all evidences, facts and circumstances must be considered to come to finding of misconduct. [Sachin Kumar & Ors. v Union of India & Ors – 2026:AHC:81720 – WRIA No. 38777 of 2015 in Allahabad High Court: Para 17]

3.2. Statutory Rules and Departmental Proceedings

.... while performing the quasi-judicial function, the authority is not permitted to ignore statutory rules under which punishment is to be imposed. The disciplinary authority is bound to give strict adherence to the said rules. Imposing the punishment for a proved delinquency is regulated and controlled by the statutory rules. [Vijay Singh v State of U. P. & Ors. – (2012) 2 S.C.R. 875].

Punishment for misconduct can be imposed in consonance with the statutory rules and principles of natural justice. [Mohd. Yunus Khan v State of U.P. and Ors. – (2010) 12 S.C.R. 448: 464 D] If order of punishment travels beyond the scope of applicable statutory rules it becomes a nullity and cannot be enforced against the charged employee. When the State acts to the prejudice of a person it has to be supported by legality.

3.3. Principle of Natural Justice & Departmental Proceedings

The departmental proceeding is a quasi-judicial one. Although the provisions of the Evidence Act are not applicable in the said proceeding, principles of natural justice are required to be complied with. The Court exercising power of judicial review are entitled to consider as to whether while inferring commission of misconduct on the part of a delinquent officer relevant piece of evidence has been taken into consideration and irrelevant facts have been excluded therefrom. Inference on facts must be based on evidence which meet the requirements of legal principles. The Tribunal was, thus, entitled to arrive at its own conclusion on the premise that the evidence adduced by the department, even if it is taken on its face value to be correct in its entirety, meet the requirements of burden of proof, namely preponderance of probability. If on such evidences, the test of the doctrine of proportionality has not been satisfied, the Tribunal was within its domain to interfere. We must place on record that the doctrine of unreasonableness is giving way to the doctrine of proportionality. [Moni Shankar v Union of India and Another – (2008) 3 S.C.R. 871: 883 F-H, 884 A-B]

We however, take care to say that we do not mean to suggest that Natural Justice is not attracted when orders of suspension or like orders of an interim nature are made. Some orders of that nature, intended to prevent further mischief of one kind, may themselves be productive of greater mischief of another kind. An interim order of stay or suspension which has the effect of preventing a person, however, temporarily, say, from pursuing his profession or line of business, may have substantial, serious and even disastrous consequences to him and may expose him to grave risk and hazard. Therefore, we say that there must be observed some modicum of residual, core natural justice, sufficient to enable the effected person to make an adequate representation. [Liberty Oil Mills & Others v Union of India & Others – (1984) 3 S.C.R. 676: 705 C – D]

3.4. Two Main Constituents – Disciplinary Authority and Enquiry Authority

It worthwhile to note that it is the Inquiry Authority and the Disciplinary Authority who are the fact-finding authorities in a disciplinary proceeding. [Union of India and Others v Dilip Paul – 2023 INSC 975 / (2023) 13 SCR 473: Para 68, 555]

3.5. Non-Application of CPC & Evidence Act

Generally speaking, Code of Civil Procedure, 1908 and Indian Evidence Act, 1872 are not strictly applicable to disciplinary proceedings and departmental enquiry as departmental proceedings are administrative and quasi – judicial / quasi criminal in nature and not in the nature of strict judicial trial before a regular court. The Indian Evidence Act explicitly applies to judicial proceedings in courts, excluding domestic and administrative inquiries. In disciplinary inquiry proceedings the rules of the CPC and the Evidence Act may not strictly apply, but it is basic that the mere production of a document is not sufficient even in a disciplinary inquiry. There has to be some witness to prove such a document. Without a witness to prove the documents, the Enquiry Officer cannot take it on record as a genuine document. In the absence of any list of witnesses, there are no means by which the documents could be been proved by the Department in the inquiry proceedings.

Though, the technical rules of procedure contained in the Code of Civil Procedure, 1908 and the provisions of the Indian Evidence Act, 1872 do not apply in a domestic enquiry, however, the principles of natural justice require to be observed strictly. [Mohd. Yunus Khan v State of U.P. and Ors. – (2010) 12 S.C.R. 448: 464 C]

While the Indian Evidence Act, 1872 is not applicable to disciplinary proceedings, the principles enshrined therein can provide sufficient guidance on the validity of the claim. [K. Prabhakar Hegde v Bank of Baroda – 2025 INSC 997: Para 65]

Industrial Tribunals, while considering the findings of domestic enquiries, must bear in mind that persons appointed to hold such enquiries are not lawyers and that such enquiries are of a simple nature where technical rules as to evidence and procedure do not prevail. Such findings are not to be lightly brushed aside merely because the enquiry officers, while writing their reports, have mentioned facts which are not strictly borne out by the evidence before them. [Tata Engineering and Locomotive Co. Ltd. v. S.C. Prasad, (1969) 3 SCC 372]

3.6. Proceedings Must be Based on Evidence & Not on Suspicion / Whims and Fancies

In these circumstances, even in departmental proceedings, there had to be some overt evidence, and not mere suspicion, to support a valid finding of complicity of the respondent. [United Bank of India v Biswanath Bhattacharjee – (2022) 3 S.C.R. 988: 1004 D]

it is not on mere whims and fancies that any opinion should be formed by the disciplinary authority merely on the seriousness of charge rather before any final opinion is expressed on the charge, the Disciplinary Authority is under a lawful obligation to follow the procedure prescribed under the service rules. [Uday Pratap Singh Vs. State of Bihar & Ors. 2017(4) PLJR 195 – Page 14]

3.7. Departmental Proceedings Compared to Court Proceedings

Departmental proceedings are different from court proceedings on the ground of purpose, standard of proof and evidentiary rules. While purpose of disciplinary proceedings included maintaining discipline, improving on efficiency in an organisation or preserving integrity within applicable service law and jurisprudence, criminal proceedings aim at punishing public wrong and penalising crime under penal statutes and criminal jurisprudence. Standard of proof applicable in departmental proceedings is the 'preponderance of probability' whereas standard of proof in criminal proceedings is 'beyond reasonable doubt'. Indian Evidence Act or procedural laws are not strictly applicable to departmental proceedings whereas these are strictly applicable in court proceedings.

..... an order of dismissal passed on a departmental enquiry by an officer in the department and an order passed by another officer next higher in rank dismissing an appeal therefrom and an order rejecting an application for revision by the head of the department can hardly be equated with any propriety with decrees made in a civil suit under the Code of Civil Procedure by the court of first instance and the decree dismissing the appeal therefrom by an appeal court and the order dismissing the revision petition by a yet higher court, as has been sought to be done by the High Court in this case, because the departmental tribunals of the first instance or on appeal or revision are not regular courts manned by persons trained in law although they may have the trappings of the courts of law. [The State of Uttar Pradesh v Mohammad Nooh – (1958) 1 S.C.R 595]

3.8. When DP is Said to have Commenced

The departmental proceeding was not initiated merely on issuance of a show cause notice. It is initiated only when a chargesheet is issued. That is the date of application of mind on the allegations levelled against an employee by the competent authority. [Uco Bank and Others v. M.B. Motwani (Dead) Thr. Lrs. & Others – 2023 INSC 908]

..... the disciplinary proceedings commence only when a charge sheet is issued. Departmental proceeding is normally said to be initiated only when a charge sheet is issued. [Union of India & Ors. v Anil Kumar Sarkar – (2013) 2 S.C.R. 396: 409 F]

A departmental proceeding is ordinarily said to be initiated only when a chargesheet is issued. [Coal India Ltd. and Ors. v Saroj Kumar Mishra - (2007) 5 S. C.R. 23: Para 21]

4. ESSENTIALS IN DEPARTMENTAL PROCEEDINGS

4.1. Proving a document

Documents used in departmental enquiry must be proved either by way of affidavit or by examination of witnesses. As held by this Court, a fact is said to be “disproved” when, after considering the matters before it, the court either believes that it does not exist or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist. A fact is said to be “not proved” when it is neither “proved” nor “disproved”. [Ram Lal v. State of Rajasthan & Ors. – (2023) 15 S.C.R. 808: Para 26]. Documents collected behind the back of the charged employee without examination of witnesses or supported by affidavit cannot be relied upon in departmental proceedings.

4.2. Documents / Materials Relied on Must be Disclosed / Furnished

Catena of Supreme Court judgments mandates that

if any document is relied upon to form the basis of enquiry, such document must be furnished to the employee; it is only then a meaningful reply can be furnished; and the failure to furnish the documents referred and relied in the notice would vitiate the entire proceedings as being arbitrary and in violation of the principles of natural justice. [Basudev Dutta v. The State of West Bengal & Ors. - (2024) 12 S.C.R. 418: Para 12.6]

It is a well-established principle of administrative law that an adjudicatory body cannot base its decision on any material unless the person against whom it is sought to be utilized has been apprised of it and given an opportunity to respond to it.[Deepak Ananda Patil v The State of Maharashtra & Ors – (2023) 5 S.C.R. 717: 723 C]

(i) A quasi-judicial authority has a duty to disclose the material that has been relied upon at the stage of adjudication; and (ii) An ipse dixit of the authority that it has not relied on certain material would not exempt it of its liability to disclose such material if it is relevant to and has a nexus to the action that is taken by the authority. In all reasonable probability, such material would have influenced the decision reached by the authority. Thus, the actual test is whether the material that is required to be disclosed is relevant for purpose of adjudication. If it is, then the principles of natural justice require its due disclosure.[T. Takano v Securities and Exchange Board of India & Anr. - (2022) 16 S.C.R. 212: 251 C-E]

There is two-prong test for the standard of ‘relevancy’; firstly, the material must have nexus with the order and secondly, the material might have influenced the decision of the authority. A Constitution Bench of this Court in Karunakar case held that the non-disclosure of the relevant information is not in itself sufficient to warrant the setting aside of the order of punishment. It was held that in order to set aside the order of punishment, the aggrieved person must be able prove that prejudice has been caused to him due to non-disclosure. To prove prejudice, he must prove that had the material been disclosed to him the outcome or the punishment would have been different. The test for the extent of disclosure and the corresponding remedy for non-disclosure is dependent on the objective that the disclosure seeks to achieve. Therefore, the impact of non-disclosure on the reliability of the verdict must also be determined vis-à-vis, the overall fairness of the proceeding. While determining the reliability of the verdict and punishment, the court must also look into the possible uses of the undisclosed information for purposes ancillary to the outcome, but that which might have impacted the verdict. [T. Takano v Securities and Exchange Board of India & Anr. - (2022) 16 S.C.R. 212]

4.3. Proper Notice

One of the essential ingredients of fair hearing is that a person should be served with a proper notice, i.e., a person has a right to notice. Notice should be clear and precise so as to give the other party adequate information of the case he has to meet and make an effective defence. Denial of notice and opportunity to respond result in making the administrative decision as vitiated. The adequacy of notice is a relative term and must be decided with reference to each case. But generally, a notice to be adequate must contain the following: (a) time, place and nature of hearing; (b) legal authority under which hearing is to be held; (c) statement of specific charges which a person has to meet. [Biecco Lawrie Ltd. & Anr. v State of West Bengal & Anr. – (2009) 11 S.C.R. 972: 986 H, 987 A-C]

4.4. Proper Hearing

A proper hearing must always take in its ambit a fair opportunity to those who are parties in the controversy for correcting or contradicting anything that is prejudicial to their view. [Biecco Lawrie Ltd. & Anr. v State of West Bengal & Anr. – (2009) 11 SCR 972: 988 C]

Hearing need not be an elaborate ritual. In situations of quick despatch, it may be minimal, even formal. Fair hearing is a postulate of decision making, although fair abridgement of that process is permissible. It can be fair without the rules of evidence or forms of trial. [Mohinder Singh Gill & Anr. v The Chief Election Commissioner, New Delhi & Ors. – (1978) 2 S.C.R. 272: 316 D-F]

Proper hearing includes summoning of witness by the charged employee, right of cross examination as an integral part of the principles of natural justice and right of representation by representative not as an absolute right but a necessity under certain peculiar conditions.

5. FORBIDDEN COURSE IN DEPARTMENTAL PROCEEDINGS

5.1. Evidence in Preliminary Enquiry cannot be Used in Regular Enquiry

..... it is evident that the evidence recorded in preliminary inquiry cannot be used in regular inquiry as the delinquent is not associated with it, and opportunity to cross examine the persons examined in such inquiry is not given. Using such evidence would be violative of the principles of natural justice. [Nirmala J. Jhala v. State of Gujarat and Another - (2013) 4 SCC 301 / (2013) 5 SCR 200: 229 E, F, H & 230A]

5.2. Departmental Enquiry Can't be a Casual Exercise

When a department enquiry is conducted against the Government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The enquiry 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 government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal / removal from service. In the case of *Shaughnessy v. United States*, 345 US 206 (1953) (Jackson J), a judge of the United States Supreme Court has said "procedural fairness and regularity are of the indispensable essence of liberty. Severe substantive laws can be endured if they are fairly and impartially applied." [State of U. P. and Ors. V Saroj Kumar Sinha – (2010) 2 SCC 772 / (2010) 2 S.C.R. 326: Para 28, 345 D-E]

5.3. Enquiry Can't be Ipse Dixit of Enquiry Officer

It is well-settled that a disciplinary enquiry has to be a quasi-judicial enquiry held according to the principles of natural justice and the Enquiry Officer has a duty to act judicially. The Enquiry Officer did not apply his mind to the evidence. Save setting out the names of the witnesses, he did not discuss the evidence. He merely recorded his ipse dixit that the charges are proved. He did not assign a single reason why the evidence produced by the appellant did not appeal to him or was considered not credit-worthy. He did not permit a peep into his mind as to why the evidence produced by the management appealed to him in preference to the evidence produced by the appellant. An enquiry report in a quasi-judicial enquiry must show the reasons for the conclusion. It cannot be an ipse dixit of the Enquiry Officer. It has to be a speaking order in the sense that the conclusion is supported by reasons. This is too well-settled to be supported by a precedent. [Anil Kumar vs Presiding Officer and Ors – (1985) 3 SCC 378 / AIR 1985 SC 1121]

5.4. No Arbitrary Exercise of Power in Departmental Proceedings

The rule of law prohibits the exercise of power in an arbitrary manner and/or in a manner that travels beyond the boundaries of reasonableness. Thus, a statutory authority is not permitted to act whimsically/arbitrarily. Its actions should be guided by the principles of reasonableness and fairness. The authority cannot be permitted to abuse the law or to use it unfairly. [Mohd. Yunus Khan v State of U.P. and Ors. – (2010) 12 S.C.R. 448: 466 F]

5.5. Interested Person Should Not be Part of Disciplinary Proceedings

Law requires that a person should not decide a case wherein he is interested. The question is not whether the person is actually biased but whether the circumstances are such as to create a reasonable apprehension in

the minds of others that there is a likelihood of bias affecting the decision. [Mohd. Yunus Khan v State of U.P. and Ors. – (2010) 12 S.C.R. 448: 468 D-E]

Anyone who has personal interest in the disciplinary proceedings must keep himself away from such proceedings. The violation of the principles of natural justice renders the order null and void. [Mohd. Yunus Khan v State of U.P. and Ors. – (2010) 12 S.C.R. 448: 469 H]

5.6. No Bias in Departmental Proceedings

The existence of an element of bias renders the entire disciplinary proceedings void. Such a defect cannot be cured at the appellate stage even if the fairness of the appellate authority is beyond dispute. [Mohd. Yunus Khan v State of U.P. and Ors. – (2010) 12 S.C.R. 448: 468 F]. It is the likelihood of bias and not actual bias which is to be considered for presence of bias in departmental proceedings.

5.7. Enquiry Officer or Disciplinary Committee Can't be Witness

The legal position emerges that if a person appears as a witness in disciplinary proceedings, he cannot be an inquiry officer nor can he pass the order of punishment as a disciplinary authority. [Mohd. Yunus Khan v State of U.P. and Ors. – (2010) 12 S.C.R. 448: 469 F]

5.8. Presiding Officer Can't Give Testimony in Departmental Proceedings

Once the Presiding Officer in Disciplinary Authority gives testimony he should not continue to be presiding officer in the departmental proceedings any longer. The two roles could not obviously be played by one and the same person (the presiding officer). It is futile to expect that he could, in the circumstances, hold the scale even. The act of the presiding officer in having his own testimony recorded in such case indubitably evidences a state of mind which clearly discloses considerable bias against the respondent. If it shocks notions of propriety and fair-play, it is bound to make a deeper impression on the mind of the respondent as to the unreality and futility of the proceedings conducted in this fashion. This indeed a gross violation of principles of natural justice.

6. REMEDY AGAINST WRONG IN DEPARTMENTAL PROCEEDINGS

If outcome of departmental proceedings goes against the charged employee, he has the right to appeal before the appropriate appellate authority. If he still becomes aggrieved by the decision of the Appellate Authority he can opt for writ petition to be filed in High Court of the State where at least a part of the cause of action arises under Article 226 and also in some cases he can move the Supreme Court of India under Article 32 for the same purpose for appropriate relief. Consideration of writ petition so filed and deciding on it is known as judicial review. In judicial review the court exercises writ jurisdiction which is basically supervisory jurisdiction and not any appellate jurisdiction by which the court will examine the decision making process without going to appreciate or reappraise evidence used in departmental proceedings.

7. ROLE OF WRIT COURT

The High Court, in exercise of its powers under Article 226/227 of the Constitution of India, shall not venture into re-appreciation of the evidence. The High Court can only see whether: a. the enquiry is held by a competent authority; b. the enquiry is held according to the procedure prescribed in that behalf; c. there is violation of the principles of natural justice in conducting the proceedings; d. the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case; e. the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations; f. the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion; g. the disciplinary authority had erroneously failed to admit the admissible and material evidence; h. the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding; i. the finding of fact is based on no evidence. [Union Of India and Others v P. Gunasekaran – (2014) 13 S.C.R. 1312: 1320 H, 1321 A-E 1321 F-H, 1322 A]

Under Article 226/227 of the Constitution of India, the High Court shall not: (i) re-appreciate the evidence; (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law; (iii) go into the adequacy of the evidence; (iv) go into the reliability of the evidence; (v) interfere, if there be some legal evidence on which findings can be based; (vi) correct the error of fact however grave it may appear to be; (vii) go into the proportionality of punishment unless it shocks its conscience. [Union Of India and Others v P. Gunasekaran – (2014) 13 SCR 1312: 1321 F-H, 1322 A]

8. CONCLUSION

Departmental proceedings aim at maintaining discipline, preserving integrity and improving on efficiency in any organisation. It is more associated with governmental organisations. In departmental / disciplinary proceedings punishment can be inflicted on employee only after enquiry on the basis of clearly drafted, unambiguous charge sheet or charge memo supported by necessary documents and evidence so as to give charged employee real opportunity of defending himself against allegations contained in charge sheet. Although CPC and Indian Evidence Act are not strictly applicable in such proceedings, nevertheless principles of natural justice are to be complied with in letter and spirit. In case of jurisdictional overreach, procedural impropriety, arbitrariness, patent illegality, disproportionate punishment, non-speaking order and so on vitiates such proceedings and consequential order, judicial interference is warranted either under Article 226 in High Court or Article 32 in the Supreme Court of India. Judicial interference in the form of judicial review necessitates interference when process of decision making is vitiated. In judicial review court uses supervisory jurisdiction and not appellate jurisdiction and court is not allowed in normal circumstances to appreciate or reappreciate facts considered by disciplinary authority or to interfere in quantum of punishment inflicted by such authority unless it is disproportionate or shocks the conscience of the court.

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