(2008) 08 AHC CK 0302

Allahabad High Court

Case No: None

Hem Raj Payasi		APPELLANT
	Vs	
Collector		RESPONDENT

Date of Decision: Aug. 12, 2008

Acts Referred:

- Constitution of India, 1950 - Article 21, 226, 309

Citation: (2008) 6 AWC 6263

Hon'ble Judges: Ashok Bhushan, J; Arun Tandon, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Ashok Bhushan, J.
We have heard Sri M.D. Singh Shekhar assisted by Sri Vivek Tiwari for the appellant, learned Standing Counsel for the respondent. We have perused the record of this appeal as well as the writ petition giving rise to this appeal.

2. This intra Court appeal has been filed by the appellant against the judgment and order dated 27th May, 2004 passed by a learned Single Judge of this Court by which order the writ petition filed by the appellant challenging the dismissal order has been dismissed.

3. Brief facts necessary for deciding the issues raised in this appeal are; the appellant (hereinafter referred to as the petitioner) was appointed as Lekhpal on 1st August, 1972. The petitioner was promoted as Assistant Registrar Kanoongo on 13th October, 1989. An order was passed by the Tahsildar on 24th January, 1992 directing the petitioner to work as Registrar Kanoongo, Karvi in local arrangement as per the approval of the Collector dated 24th January, 1992. Subsequently another order was passed on 5th February, 1992 appointing another person as Registrar Kanoongo, Karvi in place of the petitioner against which the petitioner filed a writ petition being Writ Petition No. 6851 of 1992 in which writ petition interim order was passed

staying the order dated 5th February, 1992. The petitioner thereafter was transferred as Assistant Registrar, Kanoongo to another Tahsil against which order petitioner filed another writ petition in which an interim order was passed staying the transfer order. The petitioner thereafter was allowed to work on the post of Registrar Kanoongo. The petitioner was transferred from Tahsil Karvi to Tahsil Mau by order dated 17th November, 1997. The petitioner neither handed over the charge nor joined at transferred place. On 18th November, 1997 the Additional Collector visited the Tahsil and got opened the room where 5,191 files were found. A detailed report was submitted by Sub Divisional Officer dated 26th December, 1997 against the petitioner mentioning several charges and various misconducts committed by the petitioner. The Collector decided to hold a disciplinary inquiry and a charge-sheet dated 8th January, 1998 containing fifty-three charges was issued to the petitioner. Initially the charge-sheet was not being received by the petitioner and the same could be received by the petitioner only on 30th April, 1998. Along with the charge-sheet copies of the report of the Sub Divisional Officer dated 26th December, 1997, statement of Vishnu Dutt Tiwari and the report dated 6th November, 1997 of the petitioner in response to the letter by the Sub Divisional Officer asking for certain files were served on the petitioner. The petitioner wrote a letter dated 13th May, 1998 praying for giving of various evidences mentioned in the charge-sheet. A letter was written by Inquiry Officer on 2nd June, 1998 that along with the charge-sheet copies of certain evidences had already been sent and with regard to other evidences mentioned in the charge-sheet it was stated that it was not possible to send all the evidences and the petitioner might appear during office day and get the evidences inspected or obtain photostat copies. The petitioner sent a reply insisting that copies of all the evidences be got served on the petitioner through peon. A letter was written by Inquiry Officer on 21st June, 1998 asking the petitioner to receive the copies of the evidences mentioned in the charge-sheet or inspect the same within a week. The petitioner again wrote a letter praying that Inquiry Officer be changed. The Inquiry Officer sent a detailed letter dated 4th July, 1998 informing that the petitioner in spite of letters had not obtained the copies of the evidences from the office. The Inquiry Officer concluded that this indicated that petitioner wanted to delay the proceedings. The letter further stated that photostat copies of the evidences mentioned in the charge-sheet are being sent along with the letters. The evidences with regard to each charge, which were relied, were sent along with the letter dated 4th July, 1998. The said letter mentioned the documents pertaining to each charge. The petitioner wrote a letter admitting that various documents pertaining to various charges had been received but certain documents were still wanting. The petitioner prayed for certain other documents in the letter. The petitioner wrote to the Collector praying for payment of subsistence allowance. It was also prayed that Inquiry Officer be changed. Ultimately the petitioner submitted an explanation to the charges vide his reply dated 4th November, 1998. In the letter the petitioner again stated that said reply was only an interim reply and the petitioner would give his final reply after receiving the other documents.

4. It was further stated that the name of witnesses with whom the petitioner had to cross examine would be submitted along with the final reply. The Inquiry Officer after receiving the reply considered the documentary evidences referred to in the charge-sheet and after considering the reply submitted by the petitioner to various charges, submitted the inquiry report to the Collector dated 20th January, 1999. The disciplinary authority, i.e., the Collector after receiving the inquiry report issued a show cause notice dated 6th March, 1999 to the petitioner along with a copy of the inquiry report asking the petitioner to show-cause as to why major punishment be not awarded. The petitioner submitted a reply to the Collector. The petitioner was heard personally by the Collector on 29th April, 1999 and the Collector after considering the reply of the petitioner found Charge No. 2 partly proved and Charge No. 21 not proved. It was found that for Charge No. 37 the petitioner had already been punished and all other charges were found fully proved. The disciplinary authority held that inquiry report was based on evidences and such indisciplined, irresponsible, negligent and forgerer was not fit to be kept in government service. By order dated 13th August, 1999 the petitioner was dismissed from service. Against the order of Collector, the petitioner filed the writ petition being Writ Petition No. 38477 of 1999, which after hearing was dismissed by learned Single Judge vide judgment and order dated 27th May, 2004. The present special appeal has been filed challenging the judgment and order passed by learned Single Judge.
Sri M.D. Singh Shekhar, learned Counsel for the petitioner, in support of the appeal, made following submissions:

1. Mr. Balkaran Singh, the Inquiry Officer, was himself a witness and could not have been appointed as an Inquiry Officer. He further submitted that despite petitioner''s request for changing the Inquiry Officer, the Inquiry Officer was not changed. Mr. Balkaran Singh, the Inquiry Officer was judge in his own cause, hence the entire proceedings are vitiated and are liable to be set-aside on this ground alone.

2. The petitioner was not shown the relevant documents, which were mentioned in the charge-sheet and hence there was violation of principles of natural justice. The petitioner was not given opportunity to cross-examine the witnesses, which again has violated the principles of natural justice.

3. The petitioner was not paid subsistence allowance during pendency of the inquiry, which vitiates the entire inquiry proceedings.

4. Learned Single Judge has not considered the submissions raised by the petitioner and has dismissed the writ petition with the observation that in writ jurisdiction question of facts cannot be examined or adjudicated.

5. Learned standing Counsel appearing for the respondent, refuting the submissions of Counsel for the petitioner, contended that petitioner was given ample opportunity in the inquiry proceeding. Mr. Balkaran Singh never appeared as witness in the case, hence there was no illegality in the appointment of Balkaran

Singh, the Tahsildar as Inquiry Officer. All documents were served upon the petitioner and it was the petitioner, who was avoiding to receive documents and charge-sheet and the reply was submitted by the petitioner only when the notice was published in the newspaper. The petitioner himself did not come to receive the subsistence allowance and the petitioner was in no way prejudiced by non payment of subsistence allowance.

6. We have considered the submissions of learned Counsel for the parties and have perused the record of the writ petition as well as this appeal.

7. The first submission of the learned Counsel for the petitioner is with regard to appointment of Inquiry Officer. Mr. Balkaran Singh, who was appointed as Inquiry Officer, was working as Tahsildar, Karvi at the relevant point of time. The case of the petitioner was that he was witness in the case, hence he was ineligible for being appointed as Inquiry Officer. A perusal of the inquiry report as well as of the charge-sheet do not indicate that Balkaran Singh has been listed as proposed witness or had appeared as a witness in the inquiry proceedings against the petitioner. The learned Single Judge has recorded a finding that Balkaran Singh never appeared as a witness, hence the submission was rejected. Elaborating his submission, learned Counsel for the petitioner further contended that, in fact, when the charge was taken by breaking the lock on 18th November, 1997 by the Sub Divisional Officer, the Tahsildar also accompanied him, hence he was ineligible to hold the inquiry. A perusal of the charge-sheet indicated that preliminary report was submitted against the petitioner by the Sub Divisional Officer dated 26th December, 1997 and Mr. Balkaran Singh, the Inquiry Officer, did not submit any report against the petitioner. The mere fact that Balkaran Singh was present on the date when the room was opened and several files were recovered cannot disentitle him to conduct the inquiry. Mr. Balkaran Singh being Tahsildar was accompanying the Sub Divisional Officer at the time of breaking of the lock, which fact did not make him ineligible to conduct an inquiry. This Court had occasion to consider a somewhat similar submission in Shiv Prakash Rai v. State of U.P. and Ors. reported in 2001(3) ESC 1245 (decided by one of us Justice Ashok Bhushan) in which submission was made that Superintendent of Police was witness of the incident with regard to which disciplinary inquiry was held, hence the Superintendent of Police ought to have reclused himself from the inquiry. Rejecting the said submission following was observed in paragraph 5 of the said judgment''s:

5. ...There was no violation of Rule 13. Petitioner''s Counsel further contended that before the Superintendent of Police incident took place on account of which he has been dismissed hence the Superintendent of Police ought to have reclused himself from the disciplinary proceedings. There is no such provision in the Rules which may disentitle the Superintendent of Police to pass the punishment order merely on the ground that the alleged misconduct or indiscipline took place in the present of the Superintendent of Police....

8. In the present case, Mr. Balkaran Singh, the Tahsildar, who was made Inquiry Officer, was not proposed as one of the witnesses in the charge-sheet nor he appeared as a witness in the disciplinary inquiry. The report on the basis of which the disciplinary inquiry was initiated was of the Sub Divisional Officer dated 26th December, 1997 and not of the Tahsildar. The mere fact that Tahsildar was present when room was opened breaking the lock and files were recovered did not disentitle the Tahsildar to act as Inquiry Officer. Thus the submission of the Counsel for the petitioner that Balkaran Singh could not have acted as Inquiry Officer cannot be accepted.

9. The second submission of the Counsel for the petitioner is with regard to non supply of the relevant documents and not permitting the petitioner to cross examine the witnesses. The submission is that due to above principles of natural justice were violated vitiating the entire proceedings. For considering the aforesaid submission, it is necessary to look at the charge-sheet and the nature of the charges levelled against the petitioner. The first charge against the petitioner was that in spite of his transfer vide order dated 17th November, 1997 and in spite of he having directed to handover the charge, he did not handover the charge and without information went out of the office. The second charge was for recording the name of certain persons in the Khatauni without there being any order of the competent authority. The third charge was with regard to getting the name of his father entered in the Khatauni of 1360 fasli to 1362 fasli by erasing the earlier entry in the records on the basis of which an ex-parte judgment was obtained. The fourth charge was with regard to not completing the Amal Daramad, which was made by the order passed by himself on 1st December, 1983 with regard to expunction of the name of one Ram Sanware and continuing the name of the person whose name was expunged. The fifth charge was with regard to submission of false and misleading report by the petitioner. When certain records were called for by the Sub Divisional Officer, Karvi a report was given on 6th November, 1997 by the petitioner that although files called for were entered in Misil Band register but they are not available in the office although on 18th November, 1997 when the room of land record establishment was opened 5191 files, which were in the custody of the petitioner for years, were recovered including the files called for by the petitioner. The charge was levelled that report dated 6th November, 1997 was deliberately given to mislead the authorities and the integrity of the petitioner was commented to be doubtful. The sixth charge was with regard to various sets of clothes meant for males and females, which were to be distributed to the poor and helpless persons before 31st February, 1997. Charge No. 7 related to non submission of the report by the petitioner as required by Rule 255 of the U.P. Land Records Manual and not consigning the files in the record room in spite of they having been decided long ago. The charge stated that name of several ineligible persons were mutated as lease holders in which files there was no report of the petitioner nor there was any material on the basis of which mutation can be allowed and that the order-sheets of

the said files were written in the handwriting of the petitioner and there were no signatures of the Presiding Officer although in some places signature of the Presiding Officer alleged to have been made but the said signatures did not tally with the signatures of the Presiding Officer. Charges No. 8 to 51 were again instances of different cases in which petitioner did not submit any report as required under Rule 255 and the maintenance and movement of the files was found highly objectionable and illegal. The petitioner, who was Assistant Registrar Kanoongo, was custodian of the file and was obliged to submit report but the same was not done by him. Due to his not submitting reports several illegalities were committed and certain files were fraudulently prepared to benefit certain other persons. All charges were separately mentioned giving details of the allegations. Charge No. 52 was that although report dated 14th December, 1992 was moved by Sub Divisional Officer but in spite of receiving the said file Amal Daramad proceedings had not been undertaken although more than three years had passed. Charge No. 53 was that on 18th November, 1997 an inspection was made by the Additional District Magistrate (Finance and Revenue), the Sub Divisional Officer and the Tahsildar, Karvi in Tahsil premises and the room meant for record establishment was opened in which 5191 files, which were in custody of the petitioner, were found. Most of these files related to tenure of the petitioner, which were required to be consigned in the record room but the petitioner''s intention being not bona fide, he kept these files with him, which was a serious misconduct. The charge further mentioned that petitioner had caused loss to the State, i.e., about 100 acres of land by giving undue benefit to certain persons and also caused loss to the rights of poor and helpless persons.

10. The Inquiry Officer stated in the report that with great difficulty the charge-sheet could be served on the petitioner on 30th April, 1998 and along with the charge-sheet report of the Sub Divisional Officer dated 26th December, 1993 and two other documents were sent. After receiving the charge-sheet the petitioner wrote a letter praying for copies of all the files mentioned in the charge-sheet. The Inquiry Officer vide letter dated 2nd June, 1998 informed the petitioner that he may inspect all the records mentioned in the charge-sheet or obtain photostat copies within a week. The petitioner did not appear in the office and again insisted that copies be sent through peon. The Inquiry Officer again on 21st June, 1998 wrote to the petitioner asking the petitioner to appear in the office of Inquiry Officer and obtain copies or inspect the records. The petitioner did not appear in the office on any working day and ultimately on 4th July, 1998 the Inquiry Officer sent a letter with a personal messenger sending copies of various evidences mentioned in different charges from Charge No. 1 to 53. The said letter has been filed as Annexure-10 to the writ petition, which indicates that evidences which were mentioned in Charges No. 1 to 53 were sent along with the letter. The petitioner''s case is that although he received the said letter along with evidences of 33 charges but with regard to certain other charges copies of the evidences have not been made available. The

peon who went to serve the documents submitted a report stating therein that although the petitioner signed with regard to documents referred to in several charges but did not make signature with regard to certain other charges. The said report of the peon was part of the inquiry report, which clearly mentioned that some documents were received by the petitioner and he signed the receipt thereof but even after receiving some of the documents the petitioner did not sign. No reply was given even after receiving the documents. Thereafter a notice was issued in the newspaper asking the petitioner to submit his reply only then the petitioner submitted his reply dated 4th November, 1997 running in 44 pages, which has been filed as Annexure-13 to the writ petition. The sequence of events and the letter of the Inquiry Officer sent to the petitioner clearly indicates that all efforts were made by the Inquiry Officer to give opportunity to the petitioner with regard to materials mentioned in the charge-sheet. Several charges were with regard to original case files, which were maintained and kept in the Tahsil. In spite of the Inquiry Officer writing the petitioner on 2nd June, 1998 and 21st June, 1998 to get the record inspected but the petitioner never appeared to inspect any of the records, rather he was always insisting that copies be given through peon. Although the Inquiry Officer asked the petitioner to appear and receive the copies even then he did not appear. Ultimately the Inquiry Officer vide letter dated 4th July, 1998 sent all the evidences to the petitioner through special messenger, who served the documents to the petitioner on 6th July, 1998. Receiving of the evidences mentioned in the charge-sheet on 6th July, 1998 is not denied by the petitioner but his case is that he was given documents only with regard to 33 charges and rest of the documents were not given to the petitioner. The Inquiry Officer reported that documents which were sent vide letter dated 4th July, 1998 were received by the petitioner; the petitioner gave receipt with regard to certain evidences but did not give any receipt with regard to other evidences, which were part of the letter dated 4th July, 1998. The report of the peon, which was also sent to the petitioner along with the inquiry report, also is to the same effect. The charges against the petitioner were clear and categorical. Had the petitioner wanted to give reply he could have inspected the original records copies of which, according to him, were not given, moreso the Inquiry Officer as early as on 2nd June, 1998 requested the petitioner to inspect the documents. The report of the Inquiry Officer that petitioner deliberately avoided to cooperate in the inquiry; and was adopting uncooperative attitude and wanted to delay the proceedings are based on materials on record. Thus the submission of the petitioner that he was not given the evidences as were mentioned in the charge-sheet cannot be accepted. All possible efforts were made by the Inquiry Officer in this regard and the petitioner did receive the documents on 6th July, 1998. As noticed above, the allegations were with regard to most of the case files, the petitioner could have easily inspected those case files and replied the allegations made in the charge-sheet. With regard to those case files even insistence for copies does not appear to be justified, however, the Inquiry Officer sent the photostat copies of all the record. Thus the submission of Counsel for the petitioner that

petitioner was not supplied the documents mentioned in the charge-sheet cannot be accepted.

11. Now comes the second limb of submission that petitioner was not afforded opportunity to cross examine the witnesses. In the writ petition name of not a single witness had been mentioned who according to the petitioner was not permitted to b cross-examined by the petitioner. The inquiry report also does not refer to any oral evidence of any witness. The Inquiry Officer relied on original records, which were mentioned in the charge-sheet. The question of cross-examination of a witness will arrive only when a witness appear. In the entire writ petition or in the grounds of appeal name of not a single witness has been mentioned, who appeared before the Inquiry Officer and was not cross-examined by the petitioner. It is also relevant to note that in the reply dated 4th November, 1998, which was termed by the petitioner as interim reply running into 44 pages, the petitioner did not mention the name of any witness whom he desired to cross examine rather it was mentioned in the reply dated 4th November, 1998 that names of the witnesses who were to be cross examined should be mentioned in the final reply, which never came. Thus the submission of Counsel for the petitioner that the petitioner was not permitted to cross examine the witnesses has also no substance.

12. Now comes the third submission of Counsel for the petitioner that inquiry proceedings were vitiated since the petitioner was not paid the substance allowance during pendency of the inquiry. A counter affidavit had been filed in the writ petition by the respondents in which it was categorically mentioned that petitioner was transferred on 17th November, 1997 from Tahsil Karvi to Tahsil Mau; the petitioner never submitted his joining at Tahsil Mau due to which reason his subsistence allowance was not paid; and that the petitioner did not reported at Mau nor submitted a certificate with regard to he being not engaged in any other vocation. The said facts have been clearly pleaded in paragraph 20 of the counter affidavit filed in the writ petition. The reply to the said facts has been given in paragraph 8 of the rejoinder affidavit. It was not even denied that petitioner did not join at Mau. In the counter affidavit copy of the order of the District Magistrate dated 7th April, 1998 passed on the application submitted by the petitioner for payment of subsistence allowance has also been enclosed, which indicated the reasons for non payment of allowance that is the petitioner although was transferred to Tahsil Mau but he did not join at Mau nor submitted requisite certificate due to which subsistence allowance had not been paid. In paragraph 59 of the counter affidavit again it was reiterated that petitioner had not submitted his joining after his transfer to Mau due to which subsistence allowance could not be paid. Copy of the order of Collector dated 2nd February, 1998 was enclosed along with the counter affidavit as Annexure-6, which was replied by the petitioner in the rejoinder affidavit but no reply was given.

13. Learned Counsel for the petitioner has relied on a judgment of the Apex Court in Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. and Another, . In the said judgment the Apex Court recorded a finding that adjournment prayed by the employee on account of his illness was not granted and the inquiry proceeding was ex-parte. It was further held that employee could not undertake a journey away from his home to attend the departmental proceedings, the order of punishment, including the whole proceedings would stand vitiated. Following was laid down in paragraphs 30 and 31 of the said judgment:

30. If, therefore, even that amount is not paid, then the very object of paying the reduced salary to the employee during the period of suspension would be frustrated. The act of nonpayment of Subsistence Allowance can be likened to slow-poisoning as the employee, if not permitted to sustain himself on account of non-payment of Subsistence Allowance, would gradually starve himself to death.

31. On joining Govt. service, a person does not mortgage or barter away his basic rights as a human being, including his fundamental rights, in favour of the Govt. The Govt. only because it has the power to appoint does not become the master of the body and soul of the employee. The Govt. by providing job opportunities to its citizens only fulfils its obligations under the Constitution, including the Directive Principles of the State Policy. The employee, on taking up an employment only agrees to subject himself to the regulatory measures concerning his service. His association with the Government or any other employer, like Instrumentalities of the Govt. or Statutory or Autonomous Corporations etc., is regulated by the terms of contract of service or Service Rules made by the Central or the State Govt. under, the Proviso to Article 309 of the Constitution or other Statutory Rules including Certified Standing Orders. The fundamental rights, including the Right to Life under Article 21 of the Constitution or the basic human rights are not surrendered by the employee. The provision for payment of Subsistence Allowance made in the Service Rules only ensures nonviolation of the right to life of the employee. That was the reason why this Court in State of Maharashtra Vs. Chandrabhan Tale, struck down a Service Rule which provided for payment of a nominal amount of Rupee one as Subsistence Allowance to an employee placed under suspension. This decision was followed in Fakirbhai Fulabhai Solanki Vs. Presiding Officer and Another, and it was held in that case that if an employee could not attend the departmental proceedings on account of financial stringencies caused by nonpayment of Subsistence Allowance, and thereby could not undertake a journey away from his home to attend the departmental proceedings, the order of punishment, including the whole proceedings would stand vitiated. For this purpose, reliance was also placed on an earlier decision in Ghanshyam Das Shrivastava Vs. State of Madhya Pradesh,
A Division Bench of this Court in 2001(3) A.W.C. 1831 laid down that mere non payment of subsistence allowance during the period of suspension will not ipso facto render the order of removal invalid. Following was laid down in paragraphs 13

and 15 of the said judgment:

13. The proposition that is culled out from the aforesaid judgments of the Hon''ble Supreme Court is that apart from the violation of the principles of natural justice because of non-payment of subsistence allowance, some prejudice must be shown to have been caused to the employee. Prejudice may be the inability of the employee to attend the inquiry proceedings for want of funds because of non-payment of subsistence allowance.

15. In the instant case, respondent No. 2 has not pleaded that he was prevented from attending the inquiry proceedings because of nonpayment of subsistence allowance. No material has been placed by him before the Court to show that any prejudice was caused to him on account of nonpayment of subsistence allowance. It is not in dispute that he attended the inquiry proceedings throughout and was afforded full opportunity. Under these circumstances, the Tribunal was not justified in allowing the review application and in setting aside the order of removal dated 27.8.1974. Therefore, the impugned judgment of the Tribunal is liable to be quashed.

14. In the present case it has come on the record that petitioner is original resident of Tahsil Karvi where he was posted and the Inquiry Officer also was the Tahsildar of Tahsil Karvi. The petitioner had submitted his reply and written letters praying for copies of the documents, which were duly replied and copies were given. There is no foundation in the writ petition that due to non payment of subsistence allowance he was in any manner prejudiced in participating in the inquiry. The reason given in the counter affidavit to the writ petition was that allowance could not be paid since the petitioner did not join at his transferred place although he was relieved from Tahsil Karvi. The petitioner was attached after his suspension at Tahsil Mau and his suspension allowance was to be paid there. The Collector in his letter dated 7th April, 1998n has also indicated the reason to the petitioner for not payment of subsistence allowance but despite that there is no material to show that petitioner submitted his joining in Tahsil Mau for payment of allowance from there. In any view of the matter, there being no foundation in the writ petition that due to non payment of the subsistence allowance the petitioner was prejudiced in participating in the inquiry, on the said ground inquiry cannot be held to be vitiated. Thus this submission also does not help the petitioner.

15. Learned Counsel for the petitioner lastly contended that learned Single Judge did not consider various submissions raised by the petitioner and had observed that in writ jurisdiction the question of facts can neither be considered nor adjudicated. A perusal of the judgment of learned Single Judge indicates that all the three submissions, which are being pressed in this appeal, were considered by the learned Single Judge on merits. After considering the submissions on merits it was observed by the learned Single Judge that question of facts cannot be examined under Article 226 of the Constitution of India. A perusal of the judgment of learned

Single Judge does not indicates that submission of the petitioner have not been considered on merits. The observation made by learned Single Judge that question of fact cannot be adjudicated in the writ proceedings can only mean that learned Single Judge was of the view that writ Court shall not appraise the factual issue. It is well settled that in disciplinary proceedings the jurisdiction of writ Court is very limited. The Apex Court in (2000)1 UPLBEC 173; R.S. Saini v. State of Punjab and Ors. laid down following:

...Court while exercising writ jurisdiction will not reverse a finding of enquiring authority on the ground that the evidence adduced before it is insufficient. If there is some evidence to reasonably support the conclusion of the enquiring authority, it is not the function of the Court to review the evidence and to arrive at its own independent finding. The enquiring authority is the sole Judge of the fact so long as there is some legal evidence to substantiate the finding and the adequacy or reliability of the evidence is not a matter which can be permitted to be canvassed before the Court in writ proceedings.

16. Thus the observation of the learned Single Judge that question of facts cannot be adjudicated in writ jurisdiction was in tune with the settled law that writ Court will not enter in findings recorded by inquiring authority or the disciplinary authority. We are satisfied that learned Single Judge considered the submissions raised by the Counsel for the petitioner in writ Court.

17. The Inquiry Officer in his detailed report has found all the charges proved against the petitioner except Charge No. 21 and 37. Charge 2, 33, 38 and 41 were found partly proved and rest of the charges found fully proved. The charges, which were levelled against the petitioner were serious in nature indicating dereliction of duties of the petitioner misconducting himself in not submitting reports, which were required to be submitted according to paragraph 255 of the UP. Land Records Manual. It is useful to quote paragraph 255 of the UP. Land Records Manual:

255. Office report.- On each report of transfer or succession, whether made by the lekhpal or any of the parties concerned, the Registrar or assistant registrar kanungo entrusted with the mutation work shall make a report to the Tahsildar immediately after the proclamation is issued. The report shall be based upon entries in the khatauni or the khewat and the mutation register in respect of land and other particulars involved in the mutation. The nature and extent of the interest of each transferor should be clearly specified, and the discrepancies, if any, in the details of the holding, or the share of the transferor disclosed by a comparison of the entries in the khewat or the khatauni and the mutation register with those given in the reports or the documents filed along with the reports, shall be prominently brought to the notice of the Presiding Officer, with a view to their being reconciled during the proceedings. The office report should in fact be such as might be of real help to the Presiding Officer in passing a correct order of mutation and giving the precise entry to be made as a result of the order.

18. A The reply which has been given by the petitioner to the charge that he did not submit any report in various cases pertaining to mutation is that he was never asked by the Presiding Officer to submit a reply. Paragraph 255 mandates submission of a report, which is to facilitate the Presiding Officer in passing correct order. It is the duty of a Registrar Kanoongo or Assistant Registrar Kanoongo to submit the report regarding the claim made in a mutation case. In the charges details have been given that due to non submission of the reports various illegal, incorrect and unjustified orders were passed. It was further alleged in several charges that petitioner deliberately, to give benefit to persons, either did not submit reports or submit false reports. It is not necessary in this appeal to refer to each and every charge, which has been found proved against the petitioner. Suffice it to say that charges, which have been found proved, were based on materials, which were mentioned in the charge-sheet and made available to the petitioner. Thus the submission of Counsel for the petitioner that learned Single Judge did not consider the submission and refused to enter into the merits of the case cannot be accepted. However, to satisfy ourselves we have gone through the details of the charges, reply submitted by the petitioner and the report of the Inquiry Officer. The disciplinary authority has passed the dismissal order after giving notice to the petitioner and after hearing the petitioner personally.

19. We do not find any ground in this appeal to interfere with the judgment and order of learned Single Judge or with the dismissal order passed by the Collector, Chitrakoot. There is no merit in the appeal.

20. The appeal is dismissed.