

allowances. The question of arrears of salary shall abide by the final event in the proceedings to be taken afresh by the respondents.

106. There shall be no order as to costs.

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**(2025) 5 ILRA 472**

**ORIGINAL JURISDICTION**

**CIVIL SIDE**

**DATED: LUCKNOW 30.05.2025**

**BEFORE**

**THE HON'BLE RAJESH SINGH CHAUHAN, J.**

Writ A No. 5698 of 2025

**Dr. Amod Kumar Sachan**                      **...Petitioner**  
**Versus**  
**State of U.P. & Ors.**                      **...Respondents**

**Counsel for the Petitioner:**

Gaurav Mehrotra, Harsh Vardhan Mehrotra, Ritika Singh

**Counsel for the Respondents:**

C.S.C., Shubham Tripathi

**Service Law – Disciplinary Proceedings – Right to Legal Assistance** – Supply of Documents – Petitioner, a University employee, suspended and facing departmental enquiry – Denied legal assistance and photocopies of 5133 pages of relevant documents, allowed only inspection – Enquiry Committee included a retired High Court Judge – Proceedings concluded treating petitioner's tentative reply as final.

Held: Denial of legal assistance when the Enquiry Officer is legally trained is violative of principles of natural justice [J.K. Aggarwal; Board of Trustees of the Port of Bombay; Ramesh Chandra]. Denial of photocopies of relevant documents also unfair [Saroj Kumar Sinha]. Disciplinary proceedings revived; authorities directed to provide photocopies,

permit legal assistance, and conclude proceedings before petitioner's superannuation.

**Writ Petition partly allowed.**

**List of Cases cited:**

1. Board of Trustees of the Port of Bombay Vs Dilip Kumar Raghavendra Nath Nadkarni & ors., (1983) 1 SCC 124
2. J.K. Aggarwal Vs Haryana Seeds Development Corporation Ltd. & ors., (1991) 2 SCC 283
3. Ramesh Chandra Vs Delhi University & ors., (2015) 5 SCC 549
4. St. of U.P. & ors. Vs Saroj Kumar Sinha, (2010) 2 SCC 772

(Delivered by Hon'ble Rajesh Singh Chauhan, J.)

1. Heard Shri Gaurav Mehrotra, learned counsel assisted by Ms. Ritika Singh, learned counsel for the petitioner, Shri Pradeep Kumar Singh, learned Additional Chief Standing Counsel for the State-opposite party No.1 and Shri Asit Chaturvedi, learned Senior Advocate assisted by Shri Shubham Tripathi, learned counsel for the opposite party Nos.2, 3, 4, 5 & 6.

2. Shri Shubham Tripathi has filed short counter affidavit and Ms. Ritika Singh has filed supplementary affidavit, which are taken on the record.

3. By means of this writ petition, the petitioner has prayed for the following reliefs:-

*“(I) to issue a writ, order or direction in the nature of certiorari quashing the impugned decision dated 30.03.2025 and 03.05.2025 of the*

*Respondent No.5, copy whereof is contained as Annexure Nos.2 and 3 to this writ petition.*

*(II) to issue a writ, order or direction in the nature of mandamus commanding the respondents to grant permission to the petitioner for providing legal assistance in the pending disciplinary proceedings against the petitioner.*

*(III) to issue a writ, order or direction in the nature of mandamus commanding the respondents to provide the photocopies of the relevant documents to the petitioner relating to the charges alleged in the Charge-sheet dated 02.09.2024, on the cost to be borne by the petitioner, prior to providing aforesaid with the disciplinary committee.*

*(IV) to issue a writ, order or direction in the nature of certiorari quashing the impugned suspension order dated 05.09.2024, issued by the Respondent No.6, copy whereof is contained as Annexure No.1 to this writ petition.*

*(V) to issued a writ, order or direction in the nature of certiorari quashing the impugned decision dated 30.03.2025 of the Respondent No.5, copy whereof is contained as Annexure No.2 to this writ petition.”*

4. By means of the impugned decisions dated 30.03.2025 and 03.05.2025, the petitioner has been refused for providing legal assistance and also providing the photocopies of the relevant documents as sought by the petitioner running into as many as 5133 pages.

5. In support of his Prayer No.II, learned counsel for the petitioner has drawn attention of this Court towards the dictum of Apex Court rendered in re:**J.K. Aggarwal vs. Haryana Seeds Development Corporation Ltd. and others** reported in

**(1991) 2 SCC 283, Board of Trustees of the Port of Bombay vs. Dilip Kumar Raghavendra Nath Nadkarni and others** reported in **(1983) 1 SCC 124 and Ramesh Chandra vs. Delhi University and others reported in (2015) 5 SCC 549**. In the case of **Ramesh Chandra (supra)**, the aforesaid judgments have been considered in paras-68 & 69 and observation on such point has been given from paras-67, 68, 69 & 70, which read as under:-

“67. The enquiry officer herein being a retired Judge of the High Court is a person of vast legal acumen and experience. The presenting officer also would be a person who had sufficient experience in presenting case before the enquiry officer. In this background, it is also required to consider whether an application of a delinquent employee seeking permission to be represented through a legally trained and qualified lawyer should be allowed or not.

68. In *Port of Bombay v. Dilipkumar Raghavendranath Nadkarni [(1983) 1 SCC 124 : 1983 SCC (L&S) 61]*, this Court observed: (SCC pp. 129-30 & 132, paras 10 & 12)

“10. ... Now if the rules prescribed for such an enquiry did not place an embargo on the right of the delinquent employee to be represented by a legal practitioner, the matter would be in the discretion of the enquiry officer whether looking to the nature of charges, the type of evidence and complex or simple issues that may arise in the course of enquiry, the delinquent employee in order to afford a reasonable opportunity to defend himself should be permitted to appear through a legal practitioner.

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12. ... In our view we have reached a stage in our onward march to

*fair play in action that where in an enquiry before a domestic tribunal the delinquent officer is pitted against a legally trained mind, if he seeks permission to appear through a legal practitioner the refusal to grant this request would amount to denial of a reasonable request to defend himself and the essential principles of natural justice would be violated.”*

69. In *J.K. Aggarwal v. Haryana Seeds Development Corpn. Ltd.* [(1991) 2 SCC 283 : 1991 SCC (L&S) 483 : (1991) 16 ATC 480], this Court held that the denial of the assistance of a legal practitioner in inquiry proceedings would be unfair. This Court held as follows : (SCC pp. 286-87, para 8)

“8. It would appear that in the inquiry, the respondent Corporation was represented by its Personnel and Administration Manager who is stated to be a man of law. The rule itself recognises that where the charges are so serious as to entail a dismissal from service the inquiry authority may permit the services of a lawyer. This rule vests a discretion. In the matter of exercise of this discretion one of the relevant factors is whether there is likelihood of the combat being unequal entailing a miscarriage or failure of justice and a denial of a real and reasonable opportunity for defence by reasons of the appellants being pitted against a presenting officer who is trained in law. Legal Adviser and a lawyer are for this purpose somewhat liberally construed and must include ‘whoever assists or advises on facts and in law must be deemed to be in the position of a legal adviser’. In the last analysis, a decision has to be reached on a case-to-case basis on the situational particularities and the special requirements of justice of the case. It is unnecessary, therefore, to go into the larger question ‘whether as a sequel to an adverse verdict

*in a domestic enquiry serious civil and pecuniary consequences are likely to ensue, in order to enable the person so likely to suffer such consequences with a view to giving him a reasonable opportunity to defend himself, on his request, should be permitted to appear through a legal practitioner’ which was kept open in Port of Bombay v. Dilipkumar Raghavendranath Nadkarni [(1983) 1 SCC 124 : 1983 SCC (L&S) 61]. However, it was held in that case : (SCC p. 132, para 12)*

‘12. ... In our view we have reached a stage in our onward march to fair play in action that where in an enquiry before a domestic tribunal the delinquent officer is pitted against a legally trained mind, if he seeks permission to appear through a legal practitioner the refusal to grant this request would amount to denial of a reasonable request to defend himself and the essential principles of natural justice would be violated.’”

70. In view of the law laid down by this Court, we are of the view that if any person who is or was a legal practitioner, including a retired Hon'ble Judge is appointed as an enquiry officer in an inquiry initiated against an employee, the denial of assistance of a legal practitioner to the charged employee would be unfair.”

6. In support of Prayer No.III, Shri Gaurav Mehrotra, learned counsel for the petitioner has submitted that contention of the petitioner has been fortified in catena of pronouncements, one of such has been reported in (2010) 2 SCC 772 in re: **State of Uttar Pradesh and Ors. vs. Saroj Kumar Singh**, wherein the Hon'ble Supreme Court of India has held that an employee facing a disciplinary enquiry is entitled to all the relevant statements, documents and other materials to enable

him to have a reasonable opportunity to defend himself in the disciplinary enquiry.

7. Shri Gaurav Mehrotra has submitted that the Apex Court in re: **Saroj Kumar Sinha** (*supra*) has considered so many judgments on identical issues.

8. Shri Gaurav Mehrotra has placed reliance on Annexure No.21 of the writ petition, which is tentative reply of the petitioner dated 10.02.2024 to the Charge-sheet bearing No.KGMU/VC/93/2024 dated 02.09.2024. In the aforesaid tentative reply, the petitioner has indicated the relevance of those documents thoroughly. In the aforesaid reply, the petitioner has indicated that those documents are having 5133 pages and photocopy thereof may be provided on his cost and providing the photocopies thereof, the maximum time of 48 hours would be consumed, making prayer that in the interest of justice and to ensure compliance of the principles of natural justice the petitioner may be provided the copies of those documents so that the petitioner would be able to put forth his proper defence and complete reply.

9. Shri Gaurav Mehrotra has also submitted that the petitioner had filed one reference under Section 53 of the King George Medical University Act, 2002 (herein-after referred to as the "University Act, 2002") against the suspension order dated 05.10.2024 wherein no decisions have been taken till date but which has been not pressed by the petitioner vide representation dated 23.05.2025 (Annexure No.SA-1) saying that the aforesaid reference was filed on wrong advice as no reference should be filed against the suspension order. He has apprised the Court that no decision has been taken on such representation dated 23.05.2025 also.

10. Per contra, Shri Asit Chaturvedi, learned Senior Advocate has drawn attention of this Court towards Annexure No.CA-5, which is a letter dated 26.05.2025 preferred by one Smt. Archana Gaharwar, Member Secretary, Disciplinary Committee addressing to the Vice-Chancellor apprising that the proceedings of the Disciplinary Committee has been concluded on 24.05.2025 and enquiry report has been prepared which is to be placed before the Executive Council in the next meeting. This letter further indicates that enquiry report being a confidential document, is kept under sealed envelope to be opened before the Hon'ble Executive Council in its meeting. Therefore, Shri Asit Chaturvedi, learned Senior Advocate has stated that since the departmental proceedings have already been concluded, therefore, the prayers prayed in the writ petition have been rendered infructuous, hence, the writ petition may be dismissed.

11. Shri Chaturvedi, learned Senior Advocate has also informed that the copies of the relied upon the documents have already been provided to the petitioner and the copies of demanded documents are so bulky having 5133 pages, therefore, the petitioner has been permitted to inspect those documents to submit his defence reply.

12. Shri Chaturvedi has further submitted that the petitioner has already submitted his defence reply to the charge-sheet on 01.02.2025 and considering such reply the disciplinary proceedings have been concluded on 24.05.2025.

13. On being asked from Shri Chaturvedi as to why the tentative reply to the charge-sheet, so submitted by the petitioner on 10.02.2025, has been considered as final reply when the

petitioner has categorically requested that he would submit his proper and complete defence reply after getting the photocopies of the demanded documents which have not been provided to the petitioner, Shri Chaturvedi has stated that the petitioner was adopting delaying tactic so that the disciplinary proceedings could not be concluded with expedition, more particularly, before his retirement on 15.07.2025.

14. Shri Chaturvedi has submitted that the date of retirement of the petitioner is 15.07.2025 and if the disciplinary proceedings are not concluded on or before 15.07.2025, the petitioner cannot be imposed the punishment pursuant to the enquiry report. The recital to this effect has been given in para-11 of the short counter affidavit.

15. On that, Shri Gaurav Mehrotra has candidly submitted that though no final decision has been taken by the Executive Council of the K.G.M.U., who is the Disciplinary Authority of the petitioner, and admittedly the enquiry report has not yet been prepared and placed before it but in para-11 of the short counter affidavit, the deponent has disclosed its mind that the petitioner would be awarded punishment. Shri Mehrotra has further submitted that the Disciplinary Authority may exonerate the petitioner from the charges if the defence reply of the petitioner appears to be satisfactory to the Disciplinary Authority.

16. On being further asked from Shri Chaturvedi, learned Senior Advocate as to why the petitioner has been refused to grant permission for providing legal assistance in the disciplinary proceedings in terms of the judgments of Apex Court in re: **J.K. Aggarwal (supra), Board of Trustees**

**of the Port of Bombay (supra) and Ramesh Chandra (supra)** as the Enquiry Committee is having one retired High Court Judge as a member of the said Committee, no proper reply could be given by him. However, he has submitted that such decision has already been taken by the Enquiry Committee on 30.03.2025. The reason so indicated for not providing legal assistance is that 'it is not imperative to provide legal practitioner in support of defence, especially when the Presenting Officer is also a doctor and Hon'ble Judge is only one of the member of the Committee.' The aforesaid decision is based on the legal opinion of the counsel, as has been indicated in the aforesaid order dated 30.03.2025 itself.

17. Having heard learned counsel for the parties and having perused the material available on record, it is clear that the Enquiry Committee is having one retired High Court Judge as a member, therefore, in the light of the dictums of Apex Court rendered in re: **J.K. Aggarwal (supra), Board of Trustees of the Port of Bombay (supra) and Ramesh Chandra (supra)**, the petitioner is entitled to be provided legal assistance in the disciplinary proceedings.

18. Since it is an admitted fact that the petitioner has not been provided the photocopies of the demanded documents and he has only been permitted to inspect those documents which are having 5133 pages, which may not be remembered by any normal person and the petitioner in his representation has categorically indicated the relevance of those documents to submit / to put forth his proper defence and complete reply, so the aforesaid inaction on the part of the Competent Authority would be in violation of the settled proposition of

law on the subject settled by the Apex Court in catena of cases including the case of *Saroj Kumar Sinha (supra)*. The petitioner could have not filed his proper defence and complete reply in absence of those demanded documents, therefore, the aforesaid inaction is also violative of principles of natural justice.

19. Notably, the disciplinary proceedings have been concluded on 24.05.2025 considering the tentative defence reply of the petitioner and such enquiry report has not been prepared and placed as yet before the Executive Council of the University and no final order has been passed by the Disciplinary Authority/ Executive Council, therefore, undisputedly the disciplinary proceedings have not been concluded till date inasmuch as the disciplinary proceedings are concluded after passing final order by the Disciplinary Authority i.e. the Executive Council of the University.

20. Since against the impugned suspension the petitioner has filed a reference under Section 53 of the University Act, 2002 before the Hon'ble Governor of U.P. and the Petitioner has filed an application to withdraw said reference vide representation dated 23.05.2025 wherein no order has been passed till date, therefore, the prayer regarding suspension order may not be considered at this stage.

21. In view of what has been considered above, the impugned decision dated 30.03.2025 (Annexure No.2) is hereby set aside/quashed, particularly on the decision whereby the petitioner has been denied to have legal assistance in the disciplinary proceedings and to provide the copies of the demanded documents saying

that the petitioner has been given opportunity to inspect those documents. Further, since no final decision has been taken by the Disciplinary Authority i.e. the Executive Council in the disciplinary proceedings, which are said to have been concluded on 24.05.2025, therefore, in the interest of justice, such enquiry proceedings are hereby revived/restored.

22. The Competent Authority is directed to provide the photocopies of the relevant documents/ demanded documents to the petitioner relating to the charges alleged in the charge-sheet dated 02.09.2024 on the cost to be borne by the petitioner within a period of seven days from the date of receipt a certified copy of this order.

23. The Competent Authority is further directed to grant permission to the petitioner for providing legal assistance in the disciplinary proceedings. The petitioner shall submit his complete defence reply within a period of seven days from the date of receipt of the photocopies of the demanded documents. Thereafter, the disciplinary proceedings shall be conducted and concluded, strictly in accordance with law by affording an opportunity of hearing to the petitioner, within a period of fifteen days. Thereafter, such enquiry report shall be placed before the Executive Council at the earliest and final decision may be taken by the Executive Council, strictly in accordance with law, at the earliest. The endeavour of the Competent Authority of the University should be to conclude the disciplinary proceedings and to pass final order on or before 15.07.2025 i.e. the date of superannuation of the petitioner.

24. It is needless to say that the petitioner shall cooperate in the

