



Article

# Process of Departmental Proceedings and Principles of Natural Justice – Constitutional Mandate, Connected Rules and Guidelines

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### How to cite this article:

Raj V, *et, al*, Process of Departmental Proceedings and Principles of Natural Justice – Constitutional Mandate, Connected Rules and Guidelines. *J Int Commer Law Technol*. 2026;7(1):378–384.

Received: 16-12-2025

Revised: 31-12-2025

Accepted: 12-01-2026

Published: 30-01-2026

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**Abstract:** Principles of natural justice are synonymous with fairness and justice in the dispensation of justice and have always been most significant factors in judicial, quasi-judicial and administrative system. In the context of departmental proceedings against a Government servant, it is imperative that these principles are followed in letter and spirit so that the proceedings are fair, unbiased and just, and also procedurally correct. To ensure that these principles are observed in the departmental proceedings, there is constitutional mandate as well as Government rules and regulations which enjoin upon the authorities to conduct the proceedings according to these principles. It, therefore, becomes the duty and responsibility of the administrative, inquiring and disciplinary authorities to follow the constitutional mandate and governmental rules and regulations in letter and spirit to observe the principles of natural justice in the departmental proceedings against a Government servant.

**Keywords:** Principles of natural justice, Government servant, Departmental proceedings, misconduct, Integrity, Suspension, Inquiry Officer, Cross examine, Disciplinary Authority, Delinquent, Integrity, Constitution, Rules and regulations, Bias, instructions, provisions.

## INTRODUCTION

The government employees working under the Union and the States are subject to discipline and good conduct while carrying out their duty. They must follow certain conduct rules which enjoin upon them the responsibility to work in a disciplined manner. The conduct rules are directions and guidelines to the Government employee prohibiting any kind of misconduct that is not expected from him or is unbecoming of a government servant. It may involve delinquency in performance of duties or moral turpitude or unlawful behaviour on his part. The

ambit of the conduct must be construed with reference to the subject matter and the context wherein the term 'misconduct' occurs, regard being had to the scope of the statute and the public purpose it seeks to serve.<sup>1</sup> The integrity of the Government servant is expected to be beyond doubt. 'Integrity' is synonymous with probity, purity, uprightness, rectitude, sinlessness and sincerity.<sup>2</sup>

When a Government servant is found to have indulged in an alleged act of misconduct, departmental proceedings are initiated against him. These proceedings are initiated and held in

<sup>1</sup> State of Punjab & Others vs. Ram Singh, AIR 1992 SC 2012

<sup>2</sup> Vijay Singh vs. State of UP & Others (2012) 5 SCC 242

accordance with certain rules and procedures. In the context of central Government employees, these proceedings are held in accordance with Central Civil Services (Conduct) Rules, 1964 and Central Civil Services (Classification, Control and Appeal) Rules, 1965 and also as per the guidelines issued by the Government of India from time to time in this regard. In the framing of these rules, the relevant constitutional provisions have been incorporated mandating principles of natural justice in the departmental proceeding. Similar rules and regulations are applicable to the employees working under the States and governmental entities functioning thereunder *mutatis mutandis*. Thus, in the context of departmental proceedings, the principle 'Audi Alteram Partem' would mean that the Government servant should not be condemned unheard (rule of fair hearing) by the administrative, inquiring and disciplinary authorities. 'Rule against Bias' would ensure that the Government authorities must be impartial and act fairly and without prejudice and bias. *Nemo iudex in causa sua* would mean that a Government authority cannot be a judge of his own cause. Lord Esher MR defined natural justice as 'the natural sense of what is right and wrong'.<sup>3</sup> A person, trying a cause, must not only act fairly but must be able to act above suspicion of unfairness and bias.<sup>4</sup> Judges, like Caesar's wife must be above suspicion. Showing undue favour to a party under the guise of passing judicial orders is the worst kind of judicial dishonesty.<sup>5</sup>

### **Constitutional provisions mandating observance of principles of natural justice in departmental proceedings**

Constitution of India provides protection to the Government servant from the arbitrary action of the Government authorities in the departmental proceedings. Part XIV of the Constitution deals with 'Services under the Union and the States' which contains provisions exclusively in respect of the Government servants working under the Union and the States. Principle of 'Audi Alteram Partem' (fair hearing) is explicitly incorporated in Article 311 of the Constitution which deals with dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State. The Article *inter alia* provides that :

- (1) No person who is a member of a civil service of the Union or an All-India Service or a civil service of a State shall be dismissed or

removed by an authority subordinate to that by which he was appointed; and

- (2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

Provided that this clause shall not apply-

- (a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or
- (b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or
- (c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State, it is not expedient to hold such inquiry.

Article 311 provides constitutional safeguards to civil servants and has been called 'unique in world constitutionalism'<sup>6</sup> The provisions of Article 311(1) and (2) are mandatory.<sup>7</sup> A dismissal or removal contrary to these clauses is void and inoperative and the aggrieved civil servant is entitled to suitable relief at the hands of the Court.<sup>8</sup> The Government servant can demand a declaration from the Court that the order of dismissal or removal is void and inoperative and that he remains a member of the service at the date of institution of the suit. He is also entitled to claim arrears of salary.<sup>9</sup> The rule of English law that a civil servant cannot maintain a suit against the Crown for recovery of arrears of pay does not prevail in India. It has been negated by the provisions of law in India.<sup>10</sup> Even in respect of actions taken under the second provision to Article 311 (2) departmental as well as judicial remedies are available. Departmental remedies are provided under the rules concerned relating to different services, while judicial remedy under Article 32, 136 or 226 can be available under the well-established principles of judicial review of administrative action.<sup>11</sup> The provisions of Article 311 are applicable to both permanent and temporary servants. Article 311 does not say that the protection of that article extends only to persons who are permanent members of the services or who hold permanent civil posts. Both the classes of permanent

<sup>3</sup> *Vionet vs. Barret* 1855 (55) LJRD 39,41)

<sup>4</sup> *Narinder Singh Arora vs. State (Government of NCT of Delhi)* 2012, 1 SCC 561

<sup>5</sup> *Muzaffar Hussain vs. State of Uttar Pradesh*, 2022, SCC Online 567

<sup>6</sup> U. Baxi, in his introduction to Jois M. Rama, *Services under the States* <http://hdl.handle.net/123456789/679>

<sup>7</sup> *Jatinder Nath vs. R. Gupta* AIR 1954 Cal 383

<sup>8</sup> *State of Punjab vs. Amar Singh* AIR 1966 SC 1313

<sup>9</sup> *High Commissioner for India vs. I.M. Lal* AIR 1947 PC 23

<sup>10</sup> *State of Bihar vs. Abdul Majid* AIR 1954 SC 245

<sup>11</sup> *Union of India vs. Tulsiram Patel* 1985 3 SCC 398

and temporary servants are within its protection and the decisions holding the contrary view cannot be supported as correct.<sup>12</sup>

The process of departmental proceedings must also be in consonance with other constitutional provisions which embrace the principles of natural justice. The preamble of the Constitution itself is a hallmark of fairness. Audi Alteram Partem principle is inherent in Article 14 which strikes against the root of arbitrariness and acts as a safeguard against discrimination and strikes down discriminatory and arbitrary administrative action. The Supreme Court has held that the principle 'Audi Alteram Partem' in essence enforces the equality clause in Article 14 and is applicable not only to quasi-judicial bodies but also to an administrative order adversely affecting the party in question, unless the rule has been excluded by the Act.<sup>13</sup> Right of a person to be heard in his defence is the most elementary protection and is the essence of fair adjudication. Even God did not pass sentence upon Adam before he was called upon to make his defence. Adam, says God 'where art thou, has thou not eaten of the tree whereof I commanded thee that thou should not eat'.<sup>14</sup> Where the appellant's services were not regularised while the services of other co-employees were regularised, the Supreme Court while allowing the appeal held that it was a violation of the fundamental right of equality. The principles of natural justice demand that the appellant cannot be denied the regularisation of service when his similarly placed fellow employees have been granted the benefits of regularisation.<sup>15</sup>

Article 21 of the Constitution gives the right to life and liberty. Accordingly, it is mandatory that the official proceeded against, if placed under suspension, must be paid subsistence allowance during the period of suspension so that he can survive along with his family during the period of suspension. A Government servant under suspension is entitled up to an amount equal to the leave salary which he would have drawn if he had been on leave on half pay<sup>16</sup>. The fixation of quantum of subsistence allowance for the initial period of first three months is automatic and no specific orders are necessary. The payment of subsistence allowance, in accordance with the rules, to an employee is not a bounty. It is a right. An employee is entitled to be paid subsistence allowance.<sup>17</sup> The very expression 'subsistence allowance' has an undeniable penal significance. The

meaning of the word subsist is "to remain alive as on food, to continue to exist" Subsistence means – means of supporting life, especially a minimum livelihood."<sup>18</sup> The process of departmental proceedings cannot be arbitrary, unfair or unreasonable and must follow the principles of natural justice. In the judicial review, the Courts can quash an administrative decision if it is so unreasonable and outrageous in its defiance of either logic or morals, that no sensible authority would ever make it (Wednesbury principle<sup>19</sup>). In *R. Sundaram vs. The Tamil Nadu State Level Scrutiny Committee & Ors.*<sup>20</sup>, the appellant, having served for more than 38 years was given cessation order without there being a proper inquiry. No case was pending against the appellant. The Supreme Court allowed the appeal observing that a clear pattern of harassment was visible and there appeared to be a sinister motive against the appellant and his right to pensionary benefits. Any person whose entire identity, past present and future are challenged must at least be given an opportunity to be fairly heard.

#### **Provisions under relevant rules and Government instructions on departmental proceedings mandating observance of principles of natural justice**

Principles of natural justice have been given due importance in the relevant central Government rules laying down the process of departmental proceedings against an employee viz. Central Civil Services (Conduct) Rules, 1964, Central Civil Services (Classification, Control and Appeal) Rules, 1965 and other relevant instructions and guidelines issued by the Government in this regard..

#### **Preliminary Enquiry**

Initially, when an intimation about commission of an offence comes to the knowledge of the disciplinary authority, a preliminary inquiry is conducted by the disciplinary authority. It has been held that the evidence recorded in preliminary inquiry cannot be used in the regular departmental inquiry<sup>21</sup> 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.<sup>22</sup> Government servant cannot be punished on findings of a preliminary inquiry without holding a

<sup>12</sup> Parshottam Lal Dhingra vs. Union of India AIR 1958 SC 36 : 1958 SCR 828

<sup>13</sup> Maneka Gandhi vs. Union of India, 1978 AIR 597

<sup>14</sup> Suresh Chandra Nanhoria vs. Rajendra Rajak, 2006 (65) ALR 323 (SC)

<sup>15</sup> Om Prakash Banerjee vs. West Bengal & Others, (2023) 10 SCR 427

<sup>16</sup> Fundamental Rule 53

<sup>17</sup> Jagdamba Prasad Shukla vs. State of UP, (2000) 7 SCC 90

<sup>18</sup> Ram Lakhan vs. Presiding Officer, (2000) 10 SCC 201

<sup>19</sup> Wednesbury Case, (1948) 1 KB 223

<sup>20</sup> (2023) SCR 1037

<sup>21</sup> Under Rule 14 CCS (CCA) Rules, 1965.

<sup>22</sup> Nirmala J. Jhala vs. State of Gujarat & Another, AIR 2013 SC 1513.

disciplinary inquiry after serving a charge-sheet.<sup>23</sup>

### **Suspension**

The appointing authority or an authority higher to him or the disciplinary authority or any authority empowered by the President can place a Government servant under suspension for sufficient reasons. The concerned authority has to specify the reason as to whether a disciplinary proceeding is contemplated or pending, or the Government employee has engaged himself in any activity prejudicial to the security of the State or whether a case against him in respect of a criminal offence is under investigation, inquiry or trial.<sup>24</sup> It has been held by Supreme Court that suspension should not be ordered in a routine manner. Exercise of right to suspend an employee may be justified on the facts of a particular case. Instances, however, are not rare where officers have been found to be afflicted by a 'suspension syndrome' and the employees have been found to be placed under suspension just for nothing. It is their irritability rather than the employee's trivial lapse which has often resulted in suspension.<sup>25</sup> If the period of suspension is unduly prolonged, it would show mala fides on the part of the authorities. If the charge sheet is not provided to the delinquent officer within a period of 3 months from the date of suspension, then such suspension order cannot be allowed to remain in force any further and the delinquent officer deserves to be reinstated in service and his suspension order deserves to be revoked.<sup>26</sup>

During the period of suspension, the Government employee must be paid subsistence allowance.<sup>27</sup> Where a Government servant under suspension pleaded his inability to attend the enquiry on account of financial stringency caused by the non-payment of subsistence allowance to him, the proceedings conducted against him ex-parte would be in violation of the provision of Article 311(2) of the Constitution as the person concerned did not receive a reasonable opportunity of defending himself in the disciplinary proceedings.<sup>28</sup>

### **Right of the Government servant to prepare his defence**

Fair chance must be given to the charged officer to prepare his written statement of defence against the charges. For preparation of his defence against the

charges framed against him, the Government servant proceeded against has a right to inspect the documents on the basis of which a charge sheet has been issued against him and also to seek any relevant documents which are kept in the custody of the concerned Government authority, by indicating the relevance of those documents. The inquiring authority shall provide those documents to the Government servant after obtaining the same from the concerned authority.<sup>29</sup>

### **Right to petition against bias**

An application can be moved by the charged officer at preliminary stage against the appointment of a particular Inquiry Officer on the grounds of bias. As per Government instructions<sup>30</sup>, whenever an application is moved by a Government servant against whom disciplinary proceedings are initiated under the CCS (CCA) Rules, against the Inquiry Officer on the grounds of bias, the proceedings should be stayed and the application referred to the appropriate Reviewing Authority for considering the application and passing appropriate orders thereon.

### **Doctrine of Proportionality**

Doctrine of proportionality has been assimilated in the CCS (CCA) Rules. The doctrine prohibits the administrative or disciplinary authority to use more extreme action than necessary. One cannot use a cannon to shoot a sparrow. The rules provide for minor or major penalty according to the gravity of alleged misconduct. Where the misconduct on the part of the Government servant is not so grave, proceedings against him are initiated for minor penalty (censure, withholding of increment etc.) , and, of course, where the misconduct is grave, for major penalty (dismissal, removal, compulsory retirement etc.)<sup>31</sup> The Courts would not allow administration to use a sledgehammer to crack a nut where a paring knife would suffice. Courts should analyse administrative objectives and procedures for making or reversing a decision.<sup>32</sup> Where the employee who remained absent for 6 months stated personal reasons beyond his control and offered resignation, but it was not accepted and he was removed from service by the company, it was held that the order of removal cannot be justified in such a case as the award of penalty of removal from service is not proportionate to the misconduct of the

<sup>23</sup> Cf. *Amalendu Ghosh v N.E. Rly District Traffic Superintendent* AIR 1960 SC 992

<sup>24</sup> Rule 10 of CCS (CCA) Rules, 1965.

<sup>25</sup> *M. Paul Anthony vs. Bharat Gold Mines Ltd. & Another* (1999) 3 SCC 679

<sup>26</sup> *Ajay Kumar Choudhary vs. Union of India* SC Civil Appeal No.1912/2015.

<sup>27</sup> Fundamental Rule 53.

<sup>28</sup> *Ghanshyam Das Srivastava vs. State of Madhya Pradesh* (1973) SC 1183

<sup>29</sup> Rules 11,12 and 13 of the CCS (CCA) Rules, 1965.

<sup>30</sup> G.I.C.S. (Deptt. Of Pers.) OM. No. 39/40/70-Ests.(A) dated 09.11.1972.

<sup>31</sup> Rule 11 CCS (CCA) Rules providing major/minor penalties.

<sup>32</sup> *Coimbatore District Central Coop. Bank vs. Employees Association* (2007) 4 SCC 669



employee.<sup>33</sup>

### **Instructions to avoid long delays in completion of proceedings**

Justice delayed is justice denied. Central Vigilance Commission has emphasised the time limits for various stages of disciplinary proceedings right from the stage of investigation to finalization of disciplinary case. The time limit for completion of departmental inquiry is six-months from the date of appointment of Inquiry Officer.<sup>34</sup> Delay in decision-making by authorities in processing of vigilance cases would also be construed as misconduct under the relevant Conduct Rules and would be liable to attract penal action.<sup>35</sup> Emphasis has been laid on instructions<sup>36</sup> of Government of India to all officers and officials in the Ministries/Departments and in the organizations/offices under their administrative control that if they are found responsible for wilful delay in disposal of the various types of cases dealt with them, finally leading to delay in decision making, they shall be liable for disciplinary action in terms of relevant provisions. CVC may recommend adverse action against the concerned Disciplinary/Administrative Authority who is found responsible for any unexplained delay observed in any case.<sup>37</sup> In a case where departmental proceedings were completed in 9 years and the delinquent continued to remain under suspension, Supreme Court observed that due to the unreasonable delay, the appellant suffered a lot because he and his family had to survive only on Suspension Allowance for a long period of 9 years. It is the duty of the employer to ensure that the departmental inquiry initiated against the delinquent employee is concluded within the shortest possible time by taking priority measures. In cases where the delinquent is placed under suspension during the pendency of such inquiry, it becomes all the more imperative for the employer to ensure that the inquiry is concluded in the shortest possible time to avoid any inconvenience, loss and prejudice to the rights of the delinquent employee.<sup>38</sup>

### **Right to cross examination**

Natural justice says that reasonable opportunity to cross-examine witnesses by the delinquent ought to have been granted. The charged officer has a right to cross examine the prosecution witness.<sup>39</sup> Where a

Manager in the United Commercial Bank, Chandigarh was dismissed from service and during the departmental inquiry, the Presenting Officer submitted several exhibits in the form of certificates/inspection reports prepared by senior bank officers and although they were examined by the Bank to prove those documents but opportunity to cross-examine those senior officers was not given to the delinquent, it was held that such omission amounted to denial of reasonable opportunity of defence and the inquiry needs to be conducted afresh after affording opportunity of cross examination of witnesses to the delinquent.<sup>40</sup> Where a police Sub-Inspector was dismissed from service on the charges of inefficiency and dishonesty based on adverse reports of the superior officer and such superior officers, though available were not examined to enable the charged officer to cross-examine them, it was held that refusal of the right of the delinquent to cross examine such witnesses amounted to denial of reasonable opportunity of showing cause against the action of dismissal, and the dismissal was held as not legal.<sup>41</sup>

### **Principles of natural justice to be followed by the Inquiring Authority**

The rules of natural justice are required to be observed to ensure that justice should not only be done but it is manifestly seen to be done. Principles of natural justice though universal, must be realistically and pragmatically applied.<sup>42</sup> The Inquiry Officer must be unbiased. The object of the rules of natural justice is to ensure that a Government servant is treated fairly in the proceedings.

After the conclusion of the inquiry, a report shall be prepared by the Inquiry Officer and forwarded to the Disciplinary Authority which inter alia would include the defence of the Government servant in respect of each article of charge, an assessment of the evidence in respect of each article of charge, the findings on each article or charge and reasons therefor. If in the opinion of the Inquiry Officer, any article of charge different from the original article of charge is established, he shall not record such article of charge unless the Government servant has either admitted the fact on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.<sup>43</sup> The Inquiry Officer must arrive at a conclusion that there had been a

<sup>33</sup>Chairman-cum-Managing Director, Coal India Ltd. Vs. Mukul Kumar Choudhari, AIR 2010 SC 75

<sup>34</sup> CVC Circular No.8(1)(g)/99(3) dated 03.03.1999 and No. 000/VGL/18 dated 23.05.2000

<sup>35</sup>G.I., CVC No.000/VGL/18 (Office Order No.51/08/2004) dated 10.08.2004.

<sup>36</sup>Deptt. Of Personnel & Trg. O.M. No. 11013/2/2004-Estt. (A) dated 16.02.2004

<sup>37</sup> CVC Circular No. 8(1)(g)99(3) dated 03.03.1999

<sup>38</sup>Prem Nath Bali v. Registrar, High Court of Delhi and another SC Civil Appeal No.958/2010.

<sup>39</sup> Rule 14(14) CCS (CCA) Rules, 1965.

<sup>40</sup> S.C. Girotra vs. UCO Bank, 1995 Supp(3) SCC 212

<sup>41</sup>State of Punjab vs. Dewan Chunni Lal, AIR 1970 SC 2086

<sup>42</sup> Manohar Lal Sharma vs. Principal Secretary, (2014) 9 SCC 614.

<sup>43</sup>Rule 14 (23) CCS (CCA) Rules, 1965.

preponderance of probability to prove the charge on the basis of material on record. While doing so he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witness only based on surmises and conjectures.<sup>44</sup> A delinquent has the right to make his representation against the inquiry report of the inquiry officer submitted in departmental inquiries.<sup>45</sup>

### **Findings of the Disciplinary Authority- adherence to the principles of natural justice**

Principles of natural justice must be seen being followed in the action of the Disciplinary Authority. When the Disciplinary Authority, in his findings, does not agree with the findings of the Inquiry Officer, he must give reasons for disagreement. After recording the reasons for disagreement, the Disciplinary Authority may remit the case to the Inquiring Authority for further inquiry and report and thereupon the Inquiring Authority shall hold the further inquiry according to the provisions of Rule 14.<sup>46</sup> If the charges have not been proved as per the report of the Inquiry officer, but the Disciplinary Authority does not agree with the findings, before taking any decision and making final orders, the Disciplinary Authority should forward a copy of the inquiry report to the Government servant along with his own reasons for disagreement on any article of charge, asking the Government servant to make representation in writing within 15 days.<sup>47</sup> Disciplinary Authority is bound to record reasons with the findings of the inquiry officer and to supply a copy thereof to the delinquent. Non furnishing of copy of recorded reasons of disagreement from the inquiry report prejudices the delinquent and hence consequent order of punishment stands vitiated.<sup>48</sup> The Disciplinary Authority shall consider the representation submitted by the Government servant and record its findings before proceeding further for imposition of penalty under sub rule (5) and (6) of Rule 14.<sup>49</sup>

Where, after the submission of the inquiry report by a Sub-Committee and before the order of dismissal passed by the Executive Council, the petitioner was not given any opportunity of hearing, it was held that the

manner in which punishment was inflicted was totally illegal and the impugned dismissal order was quashed.<sup>50</sup> Discretion to impose penalty must be exercised by the competent authority judiciously. In a civilized society governed by the rule of law, the punishment not prescribed under the statutory rules cannot be imposed.<sup>51</sup>

### **Right to appeal**

The rules provide ample opportunity to the Government servant to prefer appeal. In case the Government servant is not satisfied with the decision of the Disciplinary Authority, he has a right to prefer appeal against such order before the appellate authority.<sup>52</sup> When no authority is specified, in case of Gr. C and D Government servants, the appeal lies to the authority to which the authority making the order appealed against is immediately subordinate. Similarly, in case of Gr. A and B Government servants, the appeal shall lie to the Appointing Authority, when the order appealed against is made by an authority subordinate to it and to the President of India where such order is made by any other authority.<sup>53</sup>

### **Right to seek revision and review**

The Government servant has an opportunity to seek revision, if he is not satisfied with the order of the Appellate Authority. The power of revision is vested in the President. This power also vests in the Comptroller & Auditor General, Member (Personnel)/(Admn.) Postal/ Telecom. Board, Head of Department directly under the Central Government, the relevant Appellate Authority or any authority specified by the President.<sup>54</sup>

The Government servant has also the opportunity to seek a review. The power to review any order including the order passed in revision order vests with the President, when a new material fact comes to his notice which has the effect of changing the nature of the case.<sup>55</sup>

### **Right to represent against advice of UPSC**

In case the report of the Union Public Service Commission is relied upon, a copy of the same must be supplied in advance to the concerned employee, otherwise, there will be violation of principles of natural justice.<sup>56</sup> A copy of the advice of the UPSC may

<sup>44</sup> *Nirmala J. Jhala vs. State of Gujarat & Another*, AIR 2013 SC 1513. *M.V. Bijlani vs. Union of India* (2006) 5 SCC 88

<sup>45</sup> *Managing Director, ECIL, Hyderabad vs. B. Karunakar & Others* (1993) 4 SCC 727. *Kuldeep Singh vs. Commissioner of Police & Others* (1999) 2 SCC 10.

<sup>46</sup> Rule 15 (1) CCS (CCA) Rules, 1965.

<sup>47</sup> Rule 15(2) CCS (CCA) Rules, 1965.

<sup>48</sup> *S.P. Malhotra vs. Punjab National Bank* (2013) 7 SCC 251.

<sup>49</sup> Rule 15(4) CCS (CCA) Rules, 1965.

<sup>50</sup> *Vinay Kumar Pandey (Dr.) vs. Chancellor, Deen Dayal Upadhyay Gorakhpur University, Gorakhpur* 2013 (1) ESC 484 (All) (DB) (LB)

<sup>51</sup> *Vijay Singh vs. State of Uttar Pradesh & Others* (2012) 5 SCC 242.

<sup>52</sup> Rule 23 CCS (CCA) Rules, 1965.

<sup>53</sup> Rule 24 CCS (CCA) Rules, 1965.

<sup>54</sup> Rule 29, CCS (CCA) Rules, 1965.

<sup>55</sup> Rule 29(A) CCS (CCA) Rules, 1965.

<sup>56</sup> *Union of India vs. S.K. Kapoor*, SC Civil Appeal No.5341/2006.

be forwarded to the Government servant who may be allowed to submit his representation, if any, on the Commission's advice within 15 days. The disciplinary authority will consider the inquiry report, advice of the Commission and the representation(s) of the Government servant before arriving at a final decision.<sup>57</sup> Where the copy of UPSC advice was not provided to the petitioner, the Tribunal directed the concerned authority to supply the same as per DOPT OM dated 05.03.2014 on the subject.<sup>58</sup>

### Conclusion

It is the Constitutional mandate as well as Government rules and regulations that the principles of natural justice are followed in departmental proceedings. The Government servant proceeded against has been provided adequate protection of his under the provisions of the Constitution as well as vide Government rules, regulations and instructions. If the principles of natural justice are not observed by the concerned authorities, the departmental proceedings will be flawed and may be set aside by a competent Court. It is, therefore, imperative and incumbent upon the concerned authorities to follow these principles mandated by the Constitution and Government in letter and spirit, so that the proceedings are fair and just, and no injustice is done to the Government employee proceeded against

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<sup>57</sup> GI, Dep'tt. Of Pers. & Trg. OM No. 11012/8/2011-Estt.(A) dated 05.03.2014.

<sup>58</sup> Padma Jaiswal vs. Rajiv Mehrishi, C.A.T. New Delhi CP No.230/2016