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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
CHANDIGARH**

O.A. No.060/00952/2014

Decided on: 18.01.2017

**Coram: HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)**

Shami Chand Mehmi (MES No. 315111) son of Late Sh. Sardha Ram age 44 years working as Junior Engineer, Quantity Surveying and Contracts (QS&C) in the office of Garrison Engineer (West), Kabir Road, Jalandhar Cantt - 144005. Punjab.

.....Applicant

Argued by: Mr. D.R. Sharma, Advocate

Versus

1. Union of India through the Secretary, Ministry of Defence, North Block, New Delhi.
2. The Engineer in Chief, Military Engineer Service, Engineer-in-Chief's Branch, Integrated Headquarters of MoD (Army), Kashmir House, Rajaji Marg, DHQ, PO, New Delhi -110011.
3. The Chief Engineer, Western Command, Chandimandir, Panchkula, Haryana.
4. The Chief Engineer, Jalandhar Zone, Military Engineer Services, Jalandhar Cantt - 144005.
5. The Commander Works Engineers, Military Engineer Services, Jalandhar Cantt - 144005.
6. The Garrison Engineer (West), Military Engineer Services, Kabir Road, Jalandhar Cantt - 144005, Punjab.


.....Respondents


Argued by: Mr. Sanjay Goyal, Advocate

Order(Oral)

BY HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)

- 1 Arguments heard.
2. Vide separate detailed judgment of even date, rendered in O.A. NO. 060/00974/2014 between the same parties, the instant O.A. has also been partly accepted, for the reasons, and in the manner mentioned therein. However, the parties are left to bear their own costs.


**(RAJWANT SANDHU)
MEMBER (A)**


**(JUSTICE M.S. SULLAR)
MEMBER (J)
18.01.2017**

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
CHANDIGARH**

**Ist case. O.A. No. 060/00974/2014 &
IInd case O.A. NO. 060/00952/2014**

Decided on: 18.01.2017

**Coram: HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)**

Shami Chand Mehmi (MES No. 315111) son of Late Sh. Sardha Ram age 44 years working as Junior Engineer, Quantity Surveying and Contracts (QS&C) in the office of Garrison Engineer (West), Kabir Road, Jalandhar Cantt - 144005. Punjab.

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.....Respondents

Argued by: Mr. Sanjay Goyal, Advocate

ORDER

BY HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)

1. As identical questions of law and facts are involved, in Original Application (O.A.) NO. 060/00974/2014 (for brevity, 'Ist Case'), and O.A. NO. 060/00952/2014 (in short 'IInd case') titled

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Shami Chand Mehmi Vs. Union of India & Others, between the same parties, so we propose to dispose of the indicated OAs, by virtue of this common decision, in order to avoid repetition of facts. However, the facts and material have been extracted from 1st case for convenience and ready reference to decide the matter.

2. The challenge in these O.As, filed by applicant Shami Chand Mehmi son of Late Sardha Ram, is to the impugned charge-sheet dated 03.01.2012 (Annexure A-12), disagreement note dated 27.09.2013 (Annexure A-9) & punishment order dated 31.08.2014 (Annexure A-1)(in the 1st case), and to the impugned charge-sheet dated 25.08.2012 (Annexure A-11), disagreement note dated 09.12.2013 (Annexure A-8) & punishment order dated 20.08.2014 (Annexure A-1)(in the 2nd case).

3. The matrix of the facts and material, culminating in the commencement, and relevant for disposal of the instant OAs, and expositied from the record, as claimed by applicant, is that he was holding the post of Junior Engineer (QS&C), in the pay scale of Rs9300-34800 with grade pay of Rs.4600, in Pay Band (PB)-2, at the relevant time. He was stated to have submitted forged medical bill/claim of his mother amounting to Rs.60,000/-. Thus, he was stated to have committed grave mis-conduct, during the course of his employment.

4. As a consequence thereof, the applicant was served with the impugned Memorandum dated 03.01.2012 (Annexure A-12) (in the 1st case), along with the following Article of Charges:-

✓
" MES-315111 Sh. Shami Chand Mehmi while serving in GE(AF) Halwara as JE (QS&C) has preferred a forged medical reimbursement claim of his mother named Smt. Gurbax Kaur

against GE(AF) Halwara voucher No. 00/1183 dated 01 Nov 2007 for Rs.60,000/- to audit authorities for her indoor treatment in Emergency at Tagore Heart Care and Research Centre, Jalandhar w.e.f. 10 Sept 2007 to 17 Sep 2007.

During preliminary Investigation, it was established that his mother is not dependent on him as her husband named Sh. Sharda Ram, who is an Ex-serviceman and has retired from Indian Army as Subedar, getting pension from Indian Army, is still alive. Therefore, his mother seems to be dependent upon her husband. Moreover, his father being an Ex-serviceman and retired from Indian Army as Subedar and drawing pension from Indian Army can easily get the treatment of his wife by admitting her in nearest Military Hospital/ECHS.

Thus Sh. Shami Chand Mehmi, JE(QS&C) has failed to **MAINTAIN ABSOLUTE INTEGRITY.**

ARTICLE-II

MES-315111 Shri Shami Chand Mehmi, JE (QS&C) has arranged/managed Dependency Certificate dated 20 Oct 2007 of his mother from Sarpanch of Gram Panchayat of village - Mannan, District - Jalandhar Punjab and enclosed the same with his above medical reimbursement claim and reimbursed an amount of Rs.40,600/- from audit department, whereas Sarpanch of Gram Panchayat has got no power for issuing Dependency Certificate.

Thus, Shri Shami Chand Mehmi, JE (QS&C) committed an act of **UNBECOMING OF A GOVT. SERVANT."**

Sequely, in the IInd case, he was served with the impugned Memorandum dated 25.08.2012 (Annexure A-11), along with the following Article of Charges, in the IInd case as well:-

"ARTICLE-I

That the said MES-315111 Sh. Shammii Chand Mehmi, JE (QS&C), in GE(AF) Halwara during the period Oct 2009 to Mar 2010 has committed an act of gross misconduct in that he has defamed the dignity of a woman employee i.e. MES- 315174 smt. Sandeep Kaur, UDC of GE (AF) Halwara and put baseless allegations against the character of above lady without having any factual evidence/valid proof.

Thus, he has violated the provision of Rule 3 (c) of CCS (Conduct) Rules 1964.

ARTICLE - II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Shami Chand Mehmi, JE (QS&C) has committed an act of UNBVECOMING OF A GOVT SERVANT in that he failed to observe proper decorum during and after office hours. Thus, he has violated the provision of Rule 3(1)(iii) of CCS (Conduct) Rule 1964.

5. In pursuance thereof, the applicant submitted his replies to the impugned charge-sheets, denying all the charges, which were found unsatisfactory. Consequently, the enquiry officer was

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appointed and it was decided to hold regular departmental enquiry against the applicant for pointed charges in both the cases, under the **Central Civil Services (Classification, Control and Appeal) Rules, 1965** (hereinafter referred to, as CCS (CC&A) Rules, 1965), by the Competent Authority. Separate enquiries were conducted and it was concluded that the charges framed against the delinquent official, in both the cases, are not proved by the Enquiry Officer, vide enquiry reports, submitted by the enquiry officer.

6. However, the Disciplinary Authority (DA) recorded the impugned disagreement notes. The enquiry reports and disagreement notes were sent and in pursuance thereof the applicant submitted his objections, in this regard. He also requested for personal hearing, which was denied to him by the Chief Engineer. The appeals filed by him against the impugned charge-sheets and disagreement notes, were returned to him as pre-mature, in both the cases.

7. According to the applicant, during the pendency of the aforesaid appeals, major penalties of reduction to two/one lower stage(s) in the time scale of pay for a period of three years/two years respectively, without drawal of any increment during the said period, were imposed on the applicant, vide impugned order dated 31.08.2014 (Annexure A-1)(in the Ist case) and vide impugned order dated 20.08.2014 (Annexure A-1) (in the IInd case), by the Competent Authority.

8. Aggrieved thereby, the applicant has preferred the instant O.As, challenging the impugned charge-sheet dated 03.01.2012

(Annexure A-12), disagreement note dated 27.09.2013 (Annexure A-9) & punishment order dated 31.08.2014 (Annexure A-1) (in the Ist case), and the impugned charge-sheet dated 25.08.2012 (Annexure A-11), disagreement note dated 09.12.2013 (Annexure A-8) & punishment order dated 20.08.2014 (Annexure A-1) (in the IInd case), invoking the provisions of Section 19 of the Administrative Tribunals Act, 1985.

9. The case set-up by the applicant, in brief, insofar as relevant , is that he was holding Group-B Non-Gazetted, Subordinate Services Post and Engineer-in-Chief Military Engineer Services (Respondent No. 2) was the Competent Authority. Since the impugned charge-sheets were issued by the incompetent authority i.e. Chief Engineer, so the impugned charge-sheets and consequential departmental proceedings, including the impugned disagreement notes, are illegal and non-est in the eyes of law. Moreover, the entire enquiry proceedings were not conducted in accordance with the CCS (CC&A) Rules, 1965. No full opportunity of producing his defence statement and of being heard, was provided to him, which amounts to violation of the statutory rules and principles of natural justice. It was alleged that since the impugned punishment orders were passed, without deciding the statutory appeals under Rule 23 of CCS (CC&A) Rules, 1965, filed by the applicant, so the entire enquiry proceedings are vitiated and illegal. So much so neither an opportunity of hearing nor a copy of advice of UPSC was provided to him.

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10. The case of the applicant further proceeds that the issues raised by him in his replies to charge-sheets, and objections to the disagreement notes, were not at all considered, before passing the impugned penalty orders by the Authority. Even, the allegations in the charge-sheets were vague and not specific. There is no evidence on record against the applicant to enable the Competent Authority to record the impugned disagreement notes (in both the cases).

11. Levelling a variety of allegations and narrating the sequence of events, in detail, in all, the applicant claimed that the impugned charge-sheets, departmental proceedings, disagreement notes and the impugned orders are arbitrary, illegal, void and against the principles of natural justice and statutory rules. On the strength of aforesaid grounds, he sought to quash the impugned charge-sheets, disagreement notes, orders etc. in the manner indicated hereinabove.

12. The respondents refuted the claim of the applicant and filed the written statement, wherein it was pleaded (in the 1st case) that one complainant Balkar Singh submitted a complaint dated 10.02.2010(Annexure-R-I) to the Chief Engineer, Western Command, Chandimandir, with copies to the other relevant authorities, with regard to the aforesaid submission of forged medical bill of his mother by the applicant. In order to investigate the complaint, the Chief Engineer, Jalandhar Zone was detailed. The officer submitted the investigation report on 01.05.2010 (Annexure Annexure R-II). Thereafter, a show-cause notice dated 03.01.2011 (Annexure R-III) was issued to the

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applicant. Both, the charges leveled against the applicant, and disagreement notes, were based on documentary evidence.

13. According to the contesting respondents, as per para 2 and 3 of the Headquarter Chief Engineer Western Command's letter dated 28.11.2011 (Annexure-IV), the Chief Engineer Jalandhar Zone was the appointing authority of the concerned individual, presently serving with that zone. The Chief Engineer, Jalandhar Zone has recorded the disagreement note to the findings of the enquiry report, without any prejudice and in accordance with the rules. Since the applicant has not submitted his request for personal hearing within a period of 10 days on receipt of Memorandum of Charges, so the opportunity of personal hearing was denied to him. The appeals filed by the applicant, in both the cases, were considered by the Engineer-in-Chief Branch and was returned as pre-mature in the absence of any punishment order. The punishment was awarded to the applicant in view of the gravity of the offences, and there is no violation of fundamental rules and procedures, before imposing the penalty on him by the Competent Authority. The draft charge-sheets, duly authenticated by Chief Engineer Western Command, was forwarded to Chief Engineer, Air Force, vide letter dated 28.11.2011 (Annexure R-IV) for serving upon the applicant by the Chief Engineer, Jalandhar Zone being the appointing authority. The same draft charge-sheet was forwarded to the Headquarter Chief Engineer Jalandhar Zone by the Headquarter Chief Engineer (Air Force) WAC Palam, vide letter dated 23.12.2011 (Annexure R-V). Therefore, the plea of the applicant,

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that the charge-sheet was not issued by the Competent Authority, is incorrect. Since the disciplinary action was required to be taken by the Engineer-in-Chief, therefore, the applicant was correctly advised to submit his appeal to the President of India. Similarly, virtually acknowledging the factual matrix and reiterating the validity of the pointed impugned charge-sheets, disagreement notes and orders, the respondents have stoutly denied all other allegations, contained in the O.As, and prayed for its dismissal. The respondents have defended the case of the applicant on the similar grounds, in the IInd case as well.

14. Controverting the pleadings in the reply of the respondents and reiterating the grounds contained in the O.A., the applicant filed the replication. That is how we are seized of the matter.

15. We have heard learned counsel for the parties at quite some length and have gone through the record.

16. At the very outset, learned counsel, has contended, with some amount of vehemence, that the applicant was holding the post of Junior Engineer (QS&C) in the pay scale of Rs.9300-34800/- with grade pay of Rs.4600/- in Pay Band (PB) -II. As per notification dated 09.04.2009 (Annexure A-14 in Ist case)), a Central Civil post carrying the grade pay of Rs.4600/- has been re-classified as "Group B Non-Gazetted, Subordinate Services Post". The argument is that, even as per Schedule to CCS (CC&A) Rules, 1965 (Annexure A-13 in Ist case), for all group 'B' (non-gazetted) post, the Engineer-in-Chief is the Competent Authority to impose major penalties. Since the Chief Engineer

decided to hold an enquiry against the applicant and served the impugned charge-sheets, which is the inferior authority to the Competent Authority i.e. Engineer-in-Chief, so the initiation of the departmental enquiries, impugned charge sheets and disagreement notes are vitiated, in-operative and illegal. In support of the contention, he placed reliance upon a judgment of Hon'ble Apex Court in the case of **U.O.I. & Others Vs. B.V. Gopinath** (2014) 1 SCC 351.

17. On the contrary, learned counsel for the respondents has fairly acknowledged that the Competent Authority in the case of the applicant was Engineer-in-Chief (Respondent No. 2), but he vehemently contended that as the draft charge-sheet, duly authenticated by the Chief Engineer Western Command, was forwarded to the Chief Engineer (Air Force) Palam, vide letter dated 28.11.2011 (Annexure R-IV) for being served upon the applicant by the Chief Engineer, Jalandhar Zone, and the same charge -sheet was forwarded to Headquarters Chief Engineer Jalandhar Zone by Headquarters Chief Engineer (Air Force) Palam, so there is no ambiguity or illegality in the conduct of the departmental enquiry proceedings against the applicant.

18. Having heard learned counsel for the parties, having gone through the record & legal position, with their valuable help and after bestowal of thoughts over the entire matter, we are of the firm view that the impugned Article of Charges, disagreement notes and orders (in both the cases) cannot legally be sustained and the instant OAs deserve to be partly accepted, for the reasons and in the manner, mentioned herein below.

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19. As depicted hereinabove, the facts of the case are neither intricate nor much disputed, and fall within a very narrow compass. It is not a matter of dispute that the applicant was working and holding the post of Junior Engineer (QS&C) in the pay scale of Rs.9300-34800/- with grade pay of Rs.4600 in Pay Band (PB)-2, at the relevant time. As per notification dated 09.04.2009 (Annexure A-14), the post, which the applicant was holding, was converted to 'Group B Non-Gazetted, Subordinate Service Post'. Sequel, as per the Schedule (Annexure A-13) attached to CCS (CC&A) Rules, 1965, the Competent Authority for that post is Engineer-in-Chief. A perusal of the record would reveal that the Chief Engineer (not the Engineer-in-Chief) decided to hold the regular departmental enquiry against the applicant, issued impugned charge-sheets and recorded disagreement notes, which admittedly is not the Competent Authority of the pointed post of the applicant at the relevant time. In fact, the Engineer-in-Chief was the Competent Authority. Not only that, this fact has also been acknowledged by the respondents in para 13(d) of the written statement, wherein it was categorically admitted that the Engineer-in Chief is the Disciplinary Authority and the President of India is the Appellate Authority in this case. Therefore, it leaves no manner of doubt that indeed the Competent Authority of the applicant was Engineer-in-Chief at the relevant time.

20. What cannot possibly be disputed here is that the impugned charge-sheets were issued to the applicant for imposing major penalty, as contemplated under Rule 14 of the

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CCS (CC&A) Rules, which postulates that where it is proposed to hold an enquiry against a government servant under this rule and Rule 15, the **disciplinary authority** shall draw up or cause to be drawn up- (i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge; and (ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge.

21. Likewise, Rule 14(4) posits that the disciplinary authority shall deliver or cause to be delivered to the Government servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charges is proposed to be sustained and shall require the Government servant to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person.

22. A conjoint and meaningful reading of these provisions would reveal that, where it is proposed to hold an enquiry against a Government servant under Rule 14 or Rule 15, the DA shall draw up or cause to be drawn up the charge sheet. Rule 14(4) further mandates that the DA itself shall deliver or cause to be delivered to the Government servant, a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents & witnesses, by which each article of charge is proposed to be proved.

23. As indicated hereinabove, in the present case neither the competent authority has drawn nor approved the charges nor delivered a copy of Article of Charge, statement of Imputation of

Misconduct or Misbehaviour and the supporting documents etc. to the applicant, which was a condition precedent for initiation of a valid departmental enquiry (DE). Therefore, the impugned charge-sheet and all other subsequent proceedings arising there from, including the impugned disagreement notes are not only illegal but in-operative as well and would be an exercise in futility. This matter is no more res integra and is now well settled.

24. As identical question came to be decided by the Hon'ble Apex Court in the case of **U.O.I. & Others Vs. B.V. Gopinath** (2014) 1 SCC 351. Having considered the ratio of law laid down in previous judgments and interpreting Rule 14 of CCS(CCA) Rules, 1965, it was ruled as under:-

"46. Ms. Indira Jaising, also submitted that the purpose behind Article 311, Rule 14 and also the Office Order of 2005 is to ensure that only an authority that is not subordinate to the appointing authority takes disciplinary action and that rules of natural justice are complied with. According to the learned Addl. Solicitor General, the respondent is not claiming that rules of natural justice have been violated as the charge memo was not approved by the disciplinary authority. Therefore, according to the Addl. Solicitor General, the CAT as well as the High Court erred in quashing the charge sheet as no prejudice has been caused to the respondent. In our opinion, the submission of the learned Addl. Solicitor General is not factually correct. The primary submission of the respondent was that the charge sheet not having been issued by the disciplinary authority is without authority of law and, therefore, non est in the eye of law. This plea of the respondent has been accepted by the CAT as also by the High Court. The action has been taken against the respondent in Rule 14(3) of the CCS(CCA) Rules which enjoins the disciplinary authority to draw up or cause to be drawn up the substance of imputation of misconduct or misbehaviour into definite and distinct articles of charges. The term "cause to be drawn up" does not mean that the definite and distinct articles of charges once drawn up do not have to be approved by the disciplinary authority. The term "cause to be drawn up" merely refers to a delegation by the disciplinary authority to a subordinate authority to perform the task of drawing up substance of proposed "definite and distinct articles of charge sheet". These proposed articles of charge would only be finalized upon approval by the disciplinary authority. Undoubtedly, this Court in the case of P.V.Srinivasa Sastry & Ors. Vs. Comptroller and Auditor General & Ors. [1993 (1) SCC 419] has held that Article

311(1) does not say that even the departmental proceeding must be initiated only by the appointing authority. However, at the same time it is pointed out that "However, it is open to Union of India or a State Government to make any rule prescribing that even the proceeding against any delinquent officer shall be initiated by an officer not subordinate to the appointing authority." It is further held that "Any such rule shall not be inconsistent with Article 311 of the Constitution because it will amount to providing an additional safeguard or protection to the holders of a civil post."

25. Therefore, it was the mandatory/statutory duty of the Competent Authority (Engineer-in-Chief) to draw, approve and then to serve the charge sheet along with the requisite documents before initiating the regular departmental enquiry against the applicant. Any such duty performed by an inferior authority than the Competent Authority, would be nullity and non-est. The mere fact that the draft charge sheet, duly authenticated by Headquarters, Chief Engineer, Western Command was forwarded to Chief Engineer (Air Force) Palam for serving upon the applicant by Chief Engineer Jalandhar Zone, *ipso facto*, is not a ground, much less cogent, to cure the statutory defect of approval and serving of the charge sheets. It is now well settled principle of interpretation of statute that the words of statutory provisions are to be given their ordinary, popular and natural meaning. If such meaning is clear and unambiguous, the effect should be given to a provision of a statute in the same manner whatever may be the consequences. The basis of this principle is that the object of all interpretations being to know what the legislature intended, whatever was the intention of the legislature has been expressed by it through words which are to be interpreted accordingly, because the intention of the legislature can be deduced only from the

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language through which it has expressed itself. Indeed, if the language of a statute is clear, the only duty of the Court is to give effect to it and the Court has no business to look into the consequences of such interpretation. The Court is under an obligation to expound the law as it exists and leave the remedy to the legislature, even if harsh conclusions result from such exposition. The settled proposition is that mandatory provisions and command of law have to be complied with in the same manner as envisaged and mandated by any statute and it cannot be interpreted otherwise.

26. Equally, it is now well recognized principle of law that the charge memo drawn by an officer other than the specified authority, was wholly without jurisdiction and hence, vitiate the whole disciplinary enquiry, in view of the ratio of law laid down by the Hon'ble Apex Court in **Government of Andhra Pradesh Vs. M.A. Majeed & Anr.** (2006) 1 ALT 661. Again, it was observed by Hon'ble Supreme Court in case **Bhavnagar University Vs. Palitana Sugar Mill (P) Ltd. & Ors.** (2003) 2 SCC 111 that, where a statutory authority is required to do something in a particular manner, the same must be done in that manner only. The State and other authorities, while acting under the statute, are the creatures of the statute and they must act within the four corners of the statute.

27. The same very contrary plea and arguments now raised, were duly repelled by Hon'ble Apex Court in **B.V. Gopinath's case** (supra) wherein it was ruled as under:-

"43. Accepting the submission of Ms. Indira Jaising would run counter to the well known maxim delegatus non protest delegare (or delegari). The principle is summed up in "Judicial

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Review of Administrative Action" De Smith, Woolf and Jowell (Fifth Edition) as follows:-

"The rule against delegation

A discretionary power must, in general, be exercised only by the authority to which it has been committed. It is a well-known principle of law that when a power has been confided to a person in circumstances indicating that trust is being placed **in his individual judgment** and discretion, he must exercise that power **personally** unless he has been expressly empowered to delegate it to another."

The same principle has been described in "Administrative Law" H.W.R. Wade & C.F. Forsyth (Ninth Edition), Chapter 10, as follows:-

"Inalienable discretionary power

An element which is essential to the lawful exercise of power is that it should be exercised by the authority upon whom it is conferred, and by no one else. The principle is strictly applied, even where it causes administrative inconvenience, except in cases where it may reasonably be inferred that the power was intended to be delegable. Normally the courts are rigorous in requiring the power to be exercised by the precise person or body stated in the statute, and in condemning as ultra vires action taken by agents, sub-committees or delegates, however expressly authorized by the authority endowed with the power."

44. This principle has been given recognition in Sahni Silk Mills (P) Ltd. 1994 (5) SCC 346 wherein it was held as under: "6. By now it is almost settled that the legislature can permit any statutory authority to delegate its power to any other authority, of course, after the policy has been indicated in the statute itself within the framework of which such delegatee (sic) is to exercise the power. The real problem or the controversy arises when there is a sub-delegation. It is said that when Parliament has specifically appointed authority to discharge a function, it cannot be readily presumed that it had intended that its delegate should be free to empower another person or body to act in its place."

28. Therefore, in the instant cases, once it is proved on record that the impugned charge-sheets have neither been drawn up nor approved by the competent authority, in that eventuality, it cannot possibly be said that the impugned charge sheets and all departmental proceedings arising there from, including the disagreement notes, are legal and valid in the eyes of law. Any enquiry initiated on such illegal charge-sheets would be an exercise in futility. Hence, the contrary arguments of the learned counsel for the respondents *stricto-sensu* deserve to be and are hereby repelled, as the ratio of law laid down by Hon'ble Apex

Sharma

Court in the indicated judgments is *mutatis mutandis* applicable to the present controversy and is a complete answer to the problem in hand.

29. No other point, worth consideration, has either been urged or pressed by learned counsel for the parties.

30. In the light of the aforesaid reasons and without commenting further anything on merits, lest it may prejudice the case of either side, during the course of Departmental Enquiry, the instant OAs are partly allowed. The impugned charge-sheet dated 03.01.2012 (Annexure A-12), disagreement note dated 27.09.2013 (Annexure A-9) & punishment order dated 31.08.2014 (Annexure A-1) in the Ist case, and also the impugned charge-sheet dated 25.08.2012 (Annexure A-11), disagreement note dated 09.12.2013 (Annexure A-8) & punishment order dated 20.08.2014 (Annexure A-1) in the IInd case, are hereby quashed.

31. As a consequence thereof, both the cases are remitted back to the Disciplinary Authority, to decide the matter afresh by issuing a fresh specific charge sheet, duly approved by the Competent Authority, in view of the aforesaid observations and by passing a speaking & reasoned order, in accordance with law. However, the parties are left to bear their own costs.

A copy of this judgment be placed on record of connected O.A. No. 060/00952/2014.

(RAJWANT SANDHU)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)
18.01.2017

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प्रमाणित सत्य प्रतिलिपि / Certified True Copy

अनुभाग अधिकारी (न्या.) / Section Officer (Judl.)
कन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
चण्डीगढ़ पीठ / Chandigarh Bench
चण्डीगढ़ / Chandigarh