

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

ORIGINAL APPLICATION NO. 170/01022/2016

DATED THIS THE 04<sup>TH</sup> DAY OF JULY, 2017

HON'BLE SHRI JUSTICE HARUN-UL-RASHID...MEMBER (J)  
HON'BLE SHRI P. K. PRADHAN, MEMBER (A)

Nadoja Dr. Mahesh Joshi, IB(P)S,  
S/o Late Shri H.G. Joshi  
Additional Director General (South Zone)  
Ground Floor, Doordarshan Kendra Complex,  
J.C. Nagar,  
Bengaluru -560006, Karnataka  
R/o "Guru Govind Krupa",  
H.No.10, 16<sup>th</sup> Main,  
R.K. Layout, 3<sup>rd</sup> Stage,  
Padmanabha Nagar,  
Bangalore – 560070.

.....Applicant

(By Advocate M/s. Paanchajanya & Associates)  
Vs.

1. Union of India,  
By its Secretary,  
Ministry of Information & Broadcasting,  
Shastri Bhavan,  
Parliament Street,  
New Delhi – 110 001.

2. The Chief Executive Officer,  
Prasar Bharati (India's Public Service Broadcaster)  
PTI Building, Parliament Street,  
New Delhi – 110001.

3. The Director General,  
Doordarshan,  
Doordarshan Bhavan,  
Copernicus Marg,  
New Delhi – 110001.

4. The Chief Vigilance Officer,  
Directorate General,  
Doordarshan,

Doordarshan Bhavan,  
Copernicus Marg,  
New Delhi – 110001.

5. Shri Jawhar Sircar,  
Ex-Member Executive,  
Prasar Bharati,  
R/o 20/C, Lake Road,  
Kolkata – 700 029  
West Bengal.

Also at:-

17, Dover Place,  
Ballygunge,  
Kolkata – 700 019  
West Bengal.

6. Shri Sanjeev Kumar Jindal,  
Additional Director General (Admn.) – on deputation,  
Prasar Bharati  
PTI Building, Parliament Street,  
New Delhi – 110001.

Also at :-

D-301, Nagarjuna Apartment,  
Mayur Kunj,  
Mayur Vihar,  
New Delhi.

7. Shri S.P. Gaur,  
303, Amarpali East Park,  
F-27, Sector – 50,  
Noida – 203 155.

...Respondents

(By Shri S. Prakash Shetty, Senior Panel Counsel)

ORDER (ORAL)

HON'BLE PRASANNA KUMAR PRADHAN, MEMBER (A):

The applicant has filed the present OA seeking the following reliefs:

1. To quash the *Memorandum No.2/8/2016-LC dated 16/08/2016 & Memorandum No. A-10/52014-PPC (Vol.III) dated 7/10/2016, Annexure-A37 and A43, passed by the Respondent No.5, as the same is unjust arbitrary, contrary to the Principles of Natural Justice and also to the Law laid down by the Hon'ble Apex Court .*
2. *To issue Writ of Mandamus directing the concerned Authorities to order an inquiry against Respondent No.4, Respondent No.5 & Respondent No.6 for issuing Charge Memos on account of colorable exercise of power, authority, jurisdiction, personal bias*

*and animosity, to wreck vengeance and to settle scores against the Applicant.*

2. The applicant joined the Indian Broadcasting (Programme) Service in 1990 and serving as Additional Director General (South Zone) in the rank and pay of Joint Secretary to the Government of India. In the OA the applicant has given details of all his postings since he joined the service, the work done by him and also his achievements in detail. He submits that he had brought to the notice of the then Director General about the difficulties of handling both South Zone and East Zone in addition to heading Doordarshan Kendra, Delhi. He has attributed bias against Respondent No.5 and indicated ten different grounds alleging bias by Respondent No.5 against him. This includes demand made by Respondent No.5 to the applicant to handover the invited audience programme organized by Doordarshan Kendra, Delhi to private event management; belittling the Hon'ble Chief Justice of India designate; cancelling of applicant's official tour to Port Blair; divesting his additional charge of South Zone; issuing memorandum to the applicant on account of undertaking tour to South Zone. He also submitted that he had impleaded Respondent No.5 in his personal capacity in a case before the Principal Bench of the Tribunal and also in A Criminal Revision Petition filed by the applicant before the District and Session Judge, Haveri and he submits that because of all these, the present charge memo has been issued. He also submits that the applicant is on deemed deputation to Prasar Bharati and before issuing the charge memo he ought to have taken approval from the parent department. Since he is not the Appointing Authority or the Disciplinary Authority, the charge memo issued by Respondent No.5 is illegal. He

submitted that the applicant lodged a complaint before the Chief Minister of Karnataka against Respondent No.5 regarding his claiming the status of "State Guest". The other charges also are issued to take vengeance on account of personal bias. The Respondent No. 5 also appointed Respondent No.7 as the Inquiry Officer just one day before his being relieved from Prasar Bharati and this was done with a malafide intention. The applicant has also alleged bias against Respondent No. 4,6 & 7. He submitted that the Respondent No.4, under the influence of Respondent No.5, had used the Vigilance Wing as a tool to harass the applicant. In regard to Respondent No. 6, he submits that he was favoured by Respondent No.5 in his selection for the post of Additional Director General on deputation and hence he got the charge memo drafted by a private person. Those charges are false and baseless therefore he prays for quashing of the charge memo.

3. The Respondent No.1 have filed reply stating that the applicant had joined the Indian Broadcasting (Programme) Service in 1990 in a Group A post in terms of the provisions of Section 11(1) and 11(2) of Prasar Bharati (Broadcasting Corporation of India) Act 1990. All officers and employees recruited in All India Radio and Doordarshan before 05.10.2007 are deemed to be on deputation to Prasar Bharati hence the applicant falls in the said category. Section 11(4) of the Act clearly provides that Prasar Bharati shall have the disciplinary and supervisory powers and full control of the officers referred to in sub sections (1) and (2) including the power to initiate departmental proceedings and impose major or minor penalties. Only the provision to Section 11(4) provides that the power to impose major penalties of compulsory retirement, removal or dismissal from service shall be

exercised by the Central Government. Therefore Prasar Bharati has disciplinary and supervisory powers including power to initiate disciplinary proceedings including Central Government employees on deemed deputation. The applicant being a Central Government employee on deemed deputation, Prasar Bharati has power to initiate disciplinary proceedings against him. Therefore the Respondent No.1, Government of India stated that they have no role to play in the issue of the memo impugned in the Original Application.

4. The Respondent No.6 had also filed a reply saying that he has no personal bias and animosity against the applicant and had occasions to interact with the applicant only during the time he was posted to Prasar Bharati. He had never worked with Respondent No.5 or knew him earlier. His deputation to Prasar Bharati was made after considering his credentials and merits. He also denied that he did not get the charge memo drafted by private person. Since he is posted as Additional Director General (Estt. & Admn.), all disciplinary matters concerning senior officers were routed through him. Certain acts of omission and commission of the applicant were noticed by the competent authority which prima facie seemed to be violative of the Conduct Rules. He has only expressed his views in discharge of his official duties and have neither joined with CEO nor have any personal bias against the applicant. Moreover, when the chargesheet was issued by Respondent No.5 on 07.10.2016 he was undergoing training in UK. Therefore the contention of the applicant against Respondent No.6 is completely misconceived.

5. The matter was earlier heard in detail when the issue of continuation of interim order was taken up. After detailed hearing of all the parties vide order dated 27.04.2017, it was noted that no prima facie case has been made out for granting or continuing the interim order and as such the prayer of interim order was rejected. During the final hearing it was mentioned by the learned counsel for the respondents that the applicant had challenged the interim order before the Hon'ble High Court of Karnataka but did not get any relief. Both sides submitted that there is nothing more to make further submission other than what has been made earlier when the matter was taken up for hearing on interim order.

6. We have carefully considered the contention made by all the sides. The applicant's main contention is that it has been issued by Respondent No.5 who, according to him, does not have the competency to issue the same. Further the action for issue of charge memo is challenged on the grounds of personal bias and animosity and alleged that exercise of powers are contrary to the rules. The applicant who belongs to the Indian Broadcasting (Programme) Service is on deputation to Prasar Bharati. Section 11(4) of Prasar Bharati (Broadcasting Corporation of India) Act reads as follows:

*“(4) Notwithstanding anything contained in any other law for the time being in force, the Corporation shall have the disciplinary and supervisory powers and full control on the officers and employees referred to in sub-section (1) and sub-section (2), including the power to transfer them from one place, post or media to another, and to suspend, initiate disciplinary proceedings and impose major or minor penalties:  
Provided that the power to impose major penalties of compulsory retirement, removal or dismissal from service shall be exercised by the Central Government.”*

7. Going by the above provisions of the Prasar Bharati Act, it is quite

clear that the Prasar Bharati has disciplinary and supervisory powers including the power to initiate departmental proceedings in respect of Central Government employees on deemed deputation. Thus it is evident that Prasar Bharati is the competent authority to initiate the disciplinary proceedings against the applicant and there is no irregularity in the same. In the impugned charge memorandum (Annexure A-37 and Annexure A-43) the main allegation is that the applicant used his official designation in making private complaint and behaved in an undisciplined manner, denigrated his superior authority and brought disrepute to the organisation, and thereby acted in a manner which is unbecoming of a Government servant. He acted against established norms and practices followed in Government and Governmental bodies, autonomous and statutory organisations and failed to act as disciplined and responsible government servant, thereby violating Rule 3 (1) (iii), (iv), (xviii) and (xix) of the CCS (Conduct) Rules, 1964. The 2<sup>nd</sup> allegation in Annexure A-37 is that the applicant has made a false and baseless complaint to the Hon'ble Chief Minister of Karnataka vide letter dated 22.4.2016 alleging that the Chief Executive Officer, Prasar Bharati had misled the Government of Karnataka by claiming hospitality as a State Guest and causing loss to the Government of Karnataka and further the entire amount spent on CEO, Prasar Bharati during his visit to Bengaluru by the Government of Karnataka should be recovered from him. The misconduct alleged that the applicant has behaved in an indisciplined manner, denigrated his superior authority and brought disrepute to the organisation thereby acted in manner which is unbecoming of a Government servant. The Charge Memorandum dated 16.8.2016 and Charge Memorandum dated 7.10.2016

are marked as Annexure A-37 and Annexure A-43.

8. The charges leveled against the applicant in Annexure A-43 are that he manipulated the documents relating to his leave and tour programmes in such a manner so as to cause financial loss to Prasar Bharati and personal pecuniary gain to himself and thereby exhibiting the lack of absolute integrity and thereby acting in a manner unbecoming of a Government servant. The officer while functioning as Additional Director General, Doordharshan Kendra, has processed his tour programmes on loose leaflets instead of subject files, without indicating specific purpose of tour and with no tour report on completion of the journey and stay, thereby exhibiting lack of devotion to duty. The third allegation is that wilfully disobeying the official orders directing him to supply information requisite in the communication dated 01.04.2016 from the CEO, Prasar Bharati and communication dated 29.06.2016 and 19.07.2016 from Dy. Director (Pers), Prasar Bharati.

9. Looking at the charges, it is quite clear that they are on specific issues and it is not right to say and indicate that it is only because of personal bias and animosity, both charge memorandums have been issued by Respondent No.5 when he was functioning as Chief Executive Officer. Since he was the sole authority to issue the memorandum of charges to the applicant alleging that this memo was issued only because of personal bias would not be correct or justified.

10. As the matter stands, it is only a charge memo and not the final order. The Hon'ble Apex Court in *Union of India & Anr. Vs. Kunisetty Satyanarayana in Civil Appeal No.5145/2006* vide para-13 & 14 of its order



reads as follows:

*“13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge-sheet or show-cause notice vide Executive Engineer, Bihar State Housing Board v. Ramesh Kumar Singh, Special Director v. Mohd. Ghulam Ghouse, Ulagappa v. Divisional Commr., Mysore, State of U.P. v. Brahm Datt Sharma etc.*

*14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature, a mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ petition lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of anyone. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance”*

11. The Hon'ble Apex Court in Union of India and Others Vs. Upendra Singh (1994) 3 SCC 357 also dealt with similar matter. Para 6 of the order

reads as follows:

*“In the case of charges framed in a disciplinary inquiry the tribunal or court can interfere only if on the charges framed (read with imputation or particulars of the charges, if any) no misconduct or other irregularity alleged can be said to have been made out or the charges framed are contrary to any law. At this stage, the tribunal has no jurisdiction to go into the correctness or truth of the charges. The tribunal cannot take over the functions of the disciplinary authority. The truth or otherwise of the charges is a matter for the disciplinary authority to go into. Indeed, even after the conclusion of the disciplinary proceedings, if the matter comes to court or tribunal, they have no jurisdiction to look into the truth of the charges or into the correctness of the findings recorded by the disciplinary authority or the appellate authority as the case may be.”*

12. In the light of the discussions above, we are of the view that there is no justification in the plea of the applicant for quashing the charge

memorandums dated 16.08.2016 and 07.10.2016. Any contention that the applicant may have in respect of the said specific charges can be agitated by him appropriately during the departmental proceedings.

13. On detailed examination of the records and also considering the facts and circumstances of the case, we are of the view that OA is clearly devoid of merit and is liable to be dismissed.

14. Accordingly, the OA is dismissed. No order as to costs.

(P.K. PRADHAN)  
MEMBER (A)

(JUSTICE HARUN-UL-RASHID)  
MEMBER (J)

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