

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. No. 260/252 OF 2018
Cuttack, this the 21st day of June, 2018

CORAM
HON'BLE MR. S. K. PATTNAIK, MEMBER(J)
HON'BLE DR. M. SARANGI, MEMBER (A)

.....

Mrs. Suprava Das, aged about 53 years, W/o. Sri Abhaya Charan Rout, residing at Plot No. L-3/130, Acharya Vihar, Bhubaneswar and working as AGM(Sales-II, O/o the CGM, BSNL, Odisha Circle, Bhubaneswar.

...Applicant

(By the Advocate- M/s. J. M. Pattnaik, C. Panigrahi)

-VERSUS-

Union of India Represented through

1. Chairman-cum-Managing Director, At:- BSNL Bhawan, Harischandra Mathur Lane, Janapath, New Delhi-110001.
2. The Chief General Manager, Odisha Circle BSNL Bhawan, Ashok Nagar, Unit-II, Bhubaneswar.
3. The General Manager(S & M-CM), BSNL, Bhubaneswar.
4. The Vigilance Officer, office of the CGM Telecom, BSNL Ltd., Odisha Circle, BSNL Bhawan, Ashok Nagar, Unit-II, Bhubaneswar-751009.

...Respondents

(By the Advocate- Mr. K. C. Kanungo)

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O R D E R

S.P.PATTNAIK, MEMBER (JUDL.)

Applicant has filed this O.A. seeking quashing of the charge memo dated 04.05.2018 (Annexure-A/6).

2. The applicant (Mrs. Suprava Das) challenges the charge

sheet issued to her under Rule 36 of BSNL CDA Rules, 2006 under Annexure-A/6 mainly on the ground that the charge Memo has been issued by Chief General Manager, BSNL, who is not competent to issue such major penalty charge sheet against her. Since competency/authority of issuance of the charge memo is in question, we deal with the legal aspect of the matter without going to the factual aspect of the case.

3. Mr. S.K.Pattnaik, the learned Senior Counsel appearing for the BSNL has placed reliance on the decision of the Hon'ble Supreme Court in the case of *Secretary, Ministry of Defence and Ors vs Prabhash Chandra Mirdha* reported in (2013) 1 SCC (L&S) 121, and submitted that charge sheet cannot generally be a subject matter of challenge as it does not adversely affect the rights of the delinquent unless it is established that the same has been issued by an authority not competent to initiate the disciplinary proceedings. According to Their Lordships, neither disciplinary proceedings nor charge sheet can be quashed at the initial stage as it would be a premature stage to deal with the issues. However, since the question of competency/authority of issuing the charge Memo under Rule 36 of CDA Rules is in question, we feel it expedient to deal with the matter explicitly.

4. Admittedly, charge sheet dated 04/05/2018 (Annexure-A/6) has been issued by the Chief General Manager, BSNL in the capacity of Disciplinary Authority. Respondents in their counter have annexed the rules and circulars governing the field. The Applicant is in the substantive post of Sub Divisional Engineer (Telecom) but was working

as AGM (Telecom) on looking after basis. The transfer and posting order in the Grades of SDE(T) and looking after arrangement of SDE(T) to the grade of AGM (Telecom) was issued by the Asst. General Manager (HR & Admn.) for CGM, BSNL, Orissa Circle, Bhubaneswar vide order dated 29.05.2017 (Annexure-R/7 series) in which the applicant's name is at Sl No. 26 and is posted on looking after arrangement as AGM (Term & Radiation), CO BBSR under GM(CM) BBSR. Even the schedule of appointment order of Disciplinary, Appellate and Revisional Authority filed under Annexure-R/8 discloses that for Sr. SDE, grade officer, CGM/Equivalent Officer dealing with HR is the Disciplinary Authority and the Director is the Appellate Authority. So, basically, there is nothing wrong with the issue of charge memo by CGM, BSNL, who is competent to issue the same. Disciplinary Authority is decided on the basis of substantive post held by the delinquent employee and not on the basis of any temporary arrangement such as looking after basis. Applicant is yet to be promoted from the post of SDE and hence CGM is the competent authority being the Disciplinary Authority.

5. To sum up, the grievance of the applicant is without any legal and substantial basis and is liable to be rejected at the threshold. Ordered accordingly.

6. The O.A. is dismissed. No costs.

(M. SARANGI)
Member (Admn.)

(S.K.PATTNAIK)
Member (Judl.)