

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00587/2017

Jabalpur, this Friday, the 05th day of January, 2018

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Akhilesh Jha, S/o Shri D.K. Jha, age about 57 years, Occupation :
Commandant 34th Battalion, District Dhar, r/o Commandant
Bungalow, Near Indore Naka, Dhar, Madhya Pradesh – 452001.
9425127151 **-Applicant**

(By Advocate – Shri Pankaj Dubey)

V e r s u s

1. Union of India, Department of Personnel and Training, CGO
Complex through its Secretary, New Delhi – 110001.

2. State of Madhya Pradesh, Home Department through its
Secretary, Mantralaya, Vallabh Bhawan, Bhopal – 462001.

3. Director General of Police, Police Headquarters, Jhangirabd,
Bhopal 462001 **- Respondents**

(By Advocate – Shri Vijay Pandey for respondents Nos.2 & 3)

(Date of reserving the order: 04.12.2017)

ORDER

By Ramesh Singh Thakur, JM.

This Original Application has been preferred by the applicant challenging the impugned action and inaction of the respondents in issuing the impugned chargesheet dated 08.06.2016 to the applicant. The applicant had replied to the said chargesheet.

However, no action has been taken by the respondents. Therefore, he has sought for the following reliefs:

“8. Relief Sought:

1. To quash the impugned chargesheet dated 8/6/2016 (Annexure P-7) pending against the applicant.
2. To quash the order dated 20/2/2017 (Annexure A-10) passed by respondent no.2 denying the deputation to the applicant.
3. To grant the due benefit of confirmation at par with the similarly placed officers.
4. To grant all the consequential and financial benefits the applicant is bound to received.
5. Any other relief this Hon’ble Tribunal finds it fit and proper.
6. Cost may be awarded to the applicant.”

2. Briefly, the facts of the case are that the applicant was appointed as Deputy Superintendent of Police (DSP) in the year 1989 and thereafter promoted to the post of Assistant Superintendent of Police (ASP) in the year 2001. He was awarded Indian Police Services (IPS) in the year 2011. In the year 2014, the applicant was also awarded the President award. It is submitted that the applicant was never proceeded departmentally nor any proceedings initiated against him during the course of his service.

3. In the year June, 2012, the applicant was posted as Superintendent of Police (SP), Alirajpur and he remained as such until June, 2015. He was entrusted with various responsibilities with regard to the proper and controlled functioning of the District.

On 03.06.2014, the SHO, Sorwa was investigating a crime related to the offence under section 307 IPC, in reference to which he proceeded to arrest the accused related to the subject crime at Village Dabri which was 20 Kms away from the related Police Station in the jungle. It is further submitted that the village Dawri is the most criminally active village in the District for which the SHO requested the applicant telephonically to send additional force to execute the arrest as at the relevant point of time, only four police personnel were available in the concerned Police Station. The applicant sent the desired police force to the SHO as the SHO was in-charge and supervisor of the entire event.

4. On 4.6.2014, the applicant learnt that one of the accused in the concerned crime, namely Jhingle had died in the custody of the Sorva Police at the Hospital. He, accordingly, directed that FIR be lodged against all the officials who were involved in the said incidence. The applicant also referred the matter to the CID for further stringent investigation. The CID conducted the entire investigation and filed the chargesheet on 12.4.2016 (Annexure A-4). A magisterial enquiry was also conducted by the Judicial Magistrate on the custodial death of the deceased. After concluding the enquiry, the report was sent to the District and Sessions Judge vide the final report dated 10.10.2014 (Annexure

A-5). In the magisterial enquiry, in its paragraph 44 and 45, some adverse remarks were passed against the applicant in regard to the incidence of the death of the deceased in the custody. The applicant being aggrieved by the findings of the magisterial enquiry, has challenged the same before the Hon'ble High Court of Madhya Pradesh, Bench at Indore. The Hon'ble High Court vide order dated 02.03.2016 and 21.04.2016 (Annexure A-6 collectively), had expunged the remarks made in the paragraphs 44 and 45 of the judicial Enquiry Report.

5. On 15.06.2016, the respondents served a chargesheet to the applicant under Section 7(1)(b) of the All India Services (Discipline and Appeal) Rules, 1969 (herein after referred to as '**1969 Rules**'). The applicant submitted his reply dated 07.07.2016 (Annexure A-8) against the alleged charge denying all the allegations made against him. It is submitted that the entire allegation of the respondents is misconceived and bad in law as the CID has already carried out a fair and stringent enquiry and found nothing against the applicant. The alleged adverse remarks made against the applicant have also been expunged by the Hon'ble High Court. The respondents had also never brought on record any such document under pretext manifesting that the applicant had disobeyed his superiors at any point of time. Moreover, the

impugned chargesheet has been issued after two years from the date of incidence when the applicant is under the zone of consideration for the next promotion. Till date, no enquiry officer has been appointed. Being aggrieved by the impugned proceedings initiated by the respondents, the applicant has earlier approached this Tribunal by filing Original Application No.200/00747/2016, which was dismissed as premature granting liberty to the applicant to file appropriate proceedings, in case he is adversely affected by the decision of respondents on his reply dated 07.07.2016.

6. It has been submitted that now due to the alleged pending proceedings against the applicant, the services of the applicant have been adversely affected in the following manners:

- Selection grade of the applicant has been withheld.
- The NOC for deputation of the applicant has also been denied.
- Identically placed officials since the time of induction has been confirmed and the applicant has been denied confirmation due the pending proceedings.
- That, the adversity to the services of applicant is so much that the juniors of the applicant has been made the officiating DIG (Deputy Inspector General) and the applicant has been denied such benefit. It cannot be ruled that tomorrow the applicant may have to

work as a Subordinate to his own junior or batchmate without any punishment against him.

7. It was further submitted that the pending proceeding against the applicant is also in violation of the circular dated 16.04.1987 (Annexure A-11), which prescribes for completing the departmental enquiry within one year. Though the applicant has made representation dated 10.01.2017 (Annexure A-12) to the respondents, but no action has been taken by them till date.

8. The respondents Nos.2 & 3 had filed the reply wherein they have raised the preliminary objection regarding the maintainability of the O.A on the following grounds:

“(i) That, the applicant earlier approached this Hon’ble Court while filing the O.A. No.200-00747/2016, seeking the quashment of the charge sheet dated 08.06.2016 and this Hon’ble Tribunal has dismissed the said O.A giving liberty to the applicant to file the appropriate proceeding in case, he is adversely affected by the decision of the respondents on his reply dated 07.07.2016. It is submitted that the applicant in paragraph 5.6 of the application, has stated that the respondents have not proceeded to take into consideration the reply of the applicant. Further it is submitted that till date no decision has been taken on the representation of the applicant dated 07.07.2016 (Annexure P-8), therefore, this application is not maintainable as the liberty as granted by this Hon’ble Tribunal was subject to decision of the

respondents on the reply of the applicant dated 07.07.2016 and therefore, this O.A is liable to be dismissed on this ground alone.

(ii) That, in the earlier O.A. No.747/2016 also the relief of quashment of charge sheet was sought, but this Hon'ble Tribunal has not passed any order on the said relief and the applicant has not challenged that order and filed the present Original Application seeking the similar reliefs, therefore, on this ground also the Original Application is liable to be dismissed.

(iii) That, the charge sheet dated 08.06.2016 (Annexure P-7) is pending and the D.E. yet to be finalized and therefore, the judicial review in the pending D.E. is not permissible until and otherwise there is apparent material available on record to show that there is perversity or illegality or the jurisdictional issue is there, but in the present case, no such circumstances are there and therefore, Original Application is liable to be dismissed on this ground alone.”

9. In the main reply, it is submitted by the respondents that the applicant is facing departmental enquiry under the provision of All India Services (Conduct) Rules, 1968 (hereinafter referred to as ‘**1968 Rules**’). It is further submitted that the applicant, while working as SP Alirajpur, has worked against the directions of the superiors and without there being any circular, he has constituted “Gunda Squad”, and therefore, such an act of the applicant cannot

be appreciated in the eyes of law. It has been further submitted that on the demand of SHO, the applicant sent the Gunda Squad/Flying Squad for the enquiry to Police Station Sorva and one of the accused namely Jhingla died in police custody. It has also been submitted that the magisterial enquiry was conducted and the report was submitted to the District & Sessions Judge, Alirajpur. In para 44 and 45 of the report, it is mentioned that under the direction of the applicant, the Squad In-charge acted upon. However, the Hon'ble High Court has expunged the remarks of the report. But it was made clear that in case the enquiry report is challenged in any Court of law or the action is taken on the basis of enquiry report, then proper opportunity of hearing shall be granted to the applicant before drawing any adverse conclusion against him. Thus, any action against the applicant on the basis of the enquiry report dated 10.10.2014 shall be taken subject to opportunity of hearing.

10. The respondents Nos.2 & 3 have submitted that applicant had run one Gunda Squad under his supervision in District, Alirajpr, which is violative of Rule 3 of the 1968 Rules and is punishable under the 1969 Rules. It has been further submitted that the applicant has not stated anything that there is any procedural irregularity while issuing the chargesheet. It is also submitted that

in the month of September, 2013, the applicant was informed to abolish the Gunda Squad. However, instead of same, one Flying Squad was constituted by him. The process of departmental enquiry is going on and the charges cannot be dropped on the basis of his reply. It is stated that vide circulation of guidelines dated 15.01.1999 (Annexure R-2/1), issued by the Ministry of Home Affairs, Govt. of India, promotion, senior scale, selection grade, regularization and deputation cannot be given to those against whom the departmental enquiry is initiated. Therefore, application of the applicant for deputation was rejected accordingly. As per Office Memorandum dated 29.10.2007 (Annexure R-2/2), issued by the Govt. of India, Department of Personnel & Training, it has been specifically mentioned in sub clause c of clause 2 that, “vigilance clearance shall not be withheld unless (i) the officer is under suspension (ii) the officer, is on the Agreed List, provided that in all such cases the position shall be mandatorily revisited after a period of one year (iii) a chargesheet has been issued against the officer in a disciplinary proceeding and proceeding is pending etc. In the present case, vigilance clearance has been withheld due to pendency of disciplinary proceedings against the applicant.

11. It has also been submitted that the applicant's case for grant of selection grade is already considered by the Scrutiny Committee in its meeting held on 30.12.2016 and the recommendations of the committee are kept in sealed cover. In their reply, the respondents Nos.2 & 3 have also submitted that the applicant is claiming promotion in the next DPC. But he has yet not been granted the senior selection grade. Therefore, the applicant is not in the zone of consideration for the next promotion as the case for grant of senior selection grade has been kept in sealed cover. Further, the applicant has not raised any specific ground about the violation of any rules or regulations or jurisdictional error and the decision on the chargesheet is yet to be taken after due process and, therefore, it is prayed that judicial review in the matter of departmental enquiry at this initial stage may not be warranted.

12. We have heard the counsel for the respective parties and have also gone through all the documents available on record.

13. It is an admitted case of the parties that the applicant was posted as Superintendent of Police in Alirajpur District during the period from June, 2012 to April, 2015. It is also admitted fact of both the parties that on 03.06.2014, SHO Thana Sorwa demanded

additional force to execute the arrest in the most notorious village in the District. The applicant had sent the additional force as demanded by the SHO, Thana Sorwa on 03.06.2014. It is also fact that on 04.06.2014, one person died at Hospital, who was arrested in connection to the crime by the said additional force. It is further admitted fact that the judicial enquiry in reference to death of one of arrested person was concluded on 10.10.2014.

14. As per Annexure A-7 dated 24.06.2016, a chargesheet dated 08.06.2016 was served on the applicant under Rule 7(1)(b) and Rule 10 of 1969 Rules. Under the charge no.1, the allegation was that the applicant had disobeyed and shown indiscipline for running Gunda Squad unconstitutionally and therefore, has violated the Rule 3 of All India Services (Conduct) Rules, 1968. Along with the article of charge, statement of allegations was also made available to the applicant. The applicant replied to the chargesheet issued on 08.06.2016, which was received on 15.06.2016. The said reply was sent to Under Secretary, Home Department, Government of Madhya Pradesh, Bhopal on 07.07.2016. The applicant had replied in detail to the chargesheet served upon him.

15. It is pertinent to mention that till date the Disciplinary Authority has not appointed any Inquiry Officer in furtherance to the chargesheet served upon the applicant. The chargesheet relates to the incident dated 03.06.2014, which is clear from the imputation of charges annexed with the charge memorandum. In the reply to the chargesheet, the applicant has specifically mentioned in paragraph 2 that there was no written directions/orders issued by the Inspector General of Police, Indore Zone for which the applicant has been charged for violation. It was further mentioned in his reply that there was no direction issued by Inspector General of Police, Indore regarding the dissolution of Gunda Squad till 10.06.2014. The applicant has specifically mentioned that he had not formed Gunda Squad and had only kept reserved police in the Control Room and as and when it is required by the SHO of the concerned police station, the reserved police was being sent by him.

16. It was further mentioned in reply to the chargesheet that because of Assembly Elections and under the guidance of the Election Commission and as per the meeting dated 05.10.2013 conducted by the Collector and District Returning Officer to maintain the law and order during the election period, the

constitution/formation of Flying Squad dated 09.10.2013 cannot be said to be the formation/constitution of Gunda Squad. Moreover, the Flying Squad formed and constituted at CSP level in Indore city and is not at all against any statutory provision of law. The duty of the Flying Squad is to patrol in the jurisdictional area and whenever and wherever the concerned SHO requires the Flying Squad for maintaining law and order, then the team of Flying Squad are being used. It was also submitted that as per section 41(c) of Cr.P.C, a control room has been established in every District. In Alirajpur District also, the control room was established which was equipped with police force with vehicles as reserved force and in order to meet any eventuality arising out of law and order situation. So the reply filed by the applicant is in detailed form, but the respondent department has not taken any action qua it.

17. The applicant had earlier filed OA 200/00747/2016, which was decided by this Tribunal on 28.07.2016. The operative portion of the order is as under:

“The applicant has preferred this Original Application for the following reliefs:-

“8.1 To issue a writ in the nature of certiorari charge sheet dated 8/6/2016 may kindly be quashed.

8.2 *To issue a writ in the nature of mandamus respondent No.1 may kindly be directed to withdraw the charge sheet as per the explanation offered by the applicant.*

8.3 *Any other writ or direction as the Honble Court may deems fit in the circumstances of the case with awarding the cost of the proceeding.”*

3. *The grievance of the applicant is that he has been issued charge sheet dated 08.06.2016 (Annexure A-1) under Rule 10 of All India Services (Discipline and Appeal), Rules 1969. The applicant is due for promotion to the post of Deputy Inspector General and this charge sheet may debar him for consideration before the DPC. The applicant has already filed his reply on 07.07.2016 (Annexure A-12). Therefore, the respondents may be directed to consider his reply dated 07.07.2016 (Annexure A-12) and decide it expeditiously so that applicant's chance for promotion may not be adversely affected.*

4. *The applicant has submitted his reply on 07.07.2016 only . He has not filed anything to show that any date for D.P.C. regarding promotion to the post of DIG has been fixed. In pleadings it has been simply mentioned that DPC may be held shortly. The respondents have not yet taken any decision on his reply and have not taken extra-ordinarily long time. Thus, the present Original Application at this stage is premature and, therefore, dismissed. However, the applicant shall be at liberty to file appropriate proceedings, in case he is adversely affected by the decision of respondents on his reply dated 07.07.2016 (Annexure A-12).*

5. *In view of the aforesaid, this Original Application is dismissed in limine with liberty as aforesaid.”*

18. The contention of the applicant is that the incident relates back to year June, 2014 and the chargesheet has been served upon him on 15.06.2016, which is vague as no specific place, time has

been indicated in the chargesheet regarding the violation of any rule/instruction. Moreover, the documents attached with the chargesheet were not made available to the applicant to meet out the allegations on the chargesheet and further no such documents have ever been issued to the applicant for which the alleged action is being proposed by way of issuing the chargesheet. Moreover, despite reply filed by the applicant, there is no further action taken by the respondent department. Neither Inquiry Officer has been appointed nor the chargesheet has been withdrawn by the respondent department.

19. In support of the above plea, learned counsel for the applicant has relied upon the judgment passed by the Hon'ble Apex Court in the case of **Prem Nath Bali vs. Registrar, High Court of Delhi and another**, (2015) 16 Supreme Court Cases 415 in which the Hon'ble Apex Court has spelt out the purpose of disciplinary proceedings. The relevant paragraph 26 and 28 of the judgment is as under:

“26. Time and again, this Court has emphasised that it is the duty of the employer to ensure that the departmental enquiry 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 then 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.

28. Keeping these factors in mind, we are of the considered opinion that every employer (whether State or private) must make sincere endeavour to conclude the departmental enquiry proceedings once initiated against the delinquent employee within a reasonable time by giving priority to such proceedings and as far as possible it should be concluded within six months as an outer limit. Where it is not possible for the employer to conclude due to certain unavoidable causes arising in the proceedings within the time-frame then efforts should be made to conclude within the reasonably extended period depending upon the cause and the nature of inquiry but not more than a year.”

Thus, it is clear that the departmental enquiry initiated against the delinquent employee is to be concluded within shortest possible time by taking priority measures and the outer limit for conclusion of such proceedings should be within six months and if the unavoidable causes arising in the proceedings within the time frame, then efforts should be made to conclude within the reasonably extended period depending upon the cause and the nature of inquiry but not more than a year. In the present case, the incident is of June, 2014 and the chargesheet has been served upon the applicant on 24.06.2016 and till date no Inquiry Officer has been appointed and there is no conclusion of the proceeding. So there is clear-cut violation of the law settled by the Hon'ble Apex Court.

20. Regarding the violation of order for constituting the Gunda Squad passed by the Inspector General of Police, Indore, the applicant has cited the provisions of section 41C of the Code of Criminal Procedure, 1973, which is as under:

“41C. Control room at districts

(1) The State Government shall establish a police control room-

- (a) in every district; and
- (b) at State level.

(2) The State Government shall cause to be displayed on the notice board kept outside the control rooms at every district, the names and addresses of the persons arrested and the name and designation of the police officers who made the arrests.

(3) The control room at the Police Headquarters at the State level shall collect from time to time, details about the persons arrested, nature of the offence with which they are charges, and maintain a database for the information of the general public.”

21. Further, the provisions of section 29 the Madhya Pradesh and Chhattisgarh Manual and Regulations Act reads as under:

“29. कानून को प्रभावशील करने की जिम्मेदारी— कानून एवं व्यवस्था को प्रभावशील करने और अन्याय की रोकथाम करने की जिम्मेदारी में दंडाधिकारीगण, पुलिस का हाथ बटाते हैं। अपनी वैधानिक शक्ति के प्रयोग में न्यायिक पदाधिकारियों द्वारा जारी सभी विधिसंगत आदेशों का पालन करना, उनके द्वारा जारी किये गये सभी आदेशिकाओं का निष्पादन एवं तामीली करना एवं प्रत्येक दंडाधिकारी के साथ सौहार्द्र एवं आदर का बर्ताव करना पुलिस का कर्तव्य है।”

22. So, it is the duty of the Head of the Police at the District to maintain the law and order. Moreover, on record there is no such type of instruction, which has been issued by Inspector General of Police, Indore for dissolving the Gunda/Flying Squad. In the reply to the chargesheet, the applicant has clearly submitted that there is no such type of force and reserved police constituted as per section 41(c) of Cr.P.C has been used to meet any eventuality arising out of law and order situation.

23. The counsel for the respondents submitted that the present Original Application is not maintainable as the respondents had not taken any action on reply of the applicant dated 07.07.2016. However, we do not agree with this submission because subsequently the selection grade of the applicant has been withheld due to the reason pendency of the chargesheet and further the deputation sought by the applicant has been denied due to the same reason. So, after the order passed by us in OA No.200/00747/2016, service condition of the applicant has been adversely affected.

24. It is pertinent to mention that after the judicial enquiry conducted regarding the death of one of the arrested person, a detailed report was submitted under section 176 of the Cr.P.C to

District and Sessions Judge, Alirajpur, Madhya Pradesh on 10.10.2014 and the finding regarding the applicant is mentioned in paragraphs 44 and 45 of the said report. The applicant had challenged the said finding before the Hon'ble High Court of Madhya Pradesh, Bench at Indore by way of filing application u/s 482 & 483 of Cr.P.C., which was registered as M.Cr.C. No.9351/2014. The Hon'ble High Court has passed the following order on 02.03.2016, which is as under:

“On considering the above submissions and the fact that the magisterial enquiry, which has been ordered by Court of law, is likely to affect the career of the applicant; therefore without going into the merits of the case, it is directed that the remarks in paragraph 44 of the enquiry report dated 10/10/2014 shall be disregarded, with regard to the applicant/Superintendent of Police-Akhilesh Jha. If at all the report is used in the Court of law, then proper opportunity of hearing shall be granted to the applicant before an adverse conclusion is drawn against the applicant on the basis of the said report.”

25. Further, in M.Cr.C. No.3632/2016, the Hon'ble High Court of Madhya Pradesh, Bench at Indore, vide order dated 24.4.2016 has expunged the paragraph 44 and 45 of the inquiry report dated 10.10.2014. The operative portion of the order dated 21.04.2016 is as under:

“This Court keeping in view the earlier order dated 02/03/2016, is of the opinion that the present petition also deserves to be allowed and is accordingly allowed. Paragraph 44 and 45 of the

Enquiry Report dated 10/10/2014 to the extent they relate to the present petitioner are expunged. However, it is made clear that in case the Enquiry Report is challenged in any court of law or action is taken on the basis of the Enquiry Report, then proper opportunity of hearing shall be granted to the applicant before drawing any adverse conclusion against him.”

So, the paragraph 44 and 45 of the inquiry report submitted by the Judicial Magistrate First Class to the District and Sessions Judge, Alirajpur has been expunged.

26. The counsel for the applicant has also relied upon the judgment passed by the Hon’ble Apex Court in **State of Uttar Pradesh vs. Mohd. Sharif (dead) through L.Rs.**, (1982) 2 Supreme Court Cases 376, wherein it has been held by the Hon’ble Apex Court that the chargesheet served upon the delinquent employee not indicating the sufficient particularity the date, time and location of the alleged incident which constituted the charge of misconduct, is held to be illegal, void and inoperative.

27. In the chargesheet, as per Annexure A-7, the incident of custodial death pertains to 03.06.2014. The main allegation regarding the applicant is that during his posting at Alirajpur, the Gunda Squad was used despite the specific direction by the IGP, Indore for dissolution of Gunda Squad. It is pertinent to mention that in the chargesheet there is no specific

direction/instruction/order regarding which the applicant is charged for violation of such order. Furthermore, no such order has ever been placed on record in the list of documents relied upon in the charesheet. So, as per judgment of the Hon'ble Apex Court in the case of **Mohd. Sharif** (supra), such a chargesheet is vague and do not spelt out the date, time and location of the alleged incident, which constitutes the charge of misconduct.

28. The counsel for the applicant has further relied upon the judgment passed by the Hon'ble Apex Court in **Anant R. Kulkarni vs. Y.P. Education Society and Others**, (2013) 6 Supreme Court Cases 515. The Hon'ble Apex Court had dealt with the issue of enquiry at belated stage. The relevant paragraph 14 to 17 of the judgment reads as under:

“14. The court/tribunal should not generally set aside the departmental enquiry, and quash the charges on the ground of delay in initiation of disciplinary proceedings, as such a power is de hors the limitation of judicial review. In the event that the court/tribunal exercises such power, it exceeds its power of judicial review at the very threshold. Therefore, a charge-sheet or show cause notice, issued in the course of disciplinary proceedings, cannot ordinarily be quashed by court. The same principle is applicable in relation to there being a delay in conclusion of disciplinary proceedings. The facts and circumstances of the case in question, must be carefully examined, taking into consideration the gravity/magnitude of charges involved therein. The Court has to consider the seriousness and magnitude of the charges and while doing so the

Court must weigh all the facts, both for and against the delinquent officers and come to the conclusion, which is just and proper considering the circumstances involved. The essence of the matter is that the court must take into consideration all relevant facts, and balance and weigh the same, so as to determine, if it is infact in the interest of clean and honest administration, that the said proceedings are allowed to be terminated, only on the ground of a delay in their conclusion. (Vide: [State of U.P. v. Brahm Datt Sharma & Anr.](#), AIR 1987 SC 943; [State of Madhya Pradesh v. Bani Singh & Anr.](#), AIR 1990 SC 1308; [State of Punjab & Ors. v. Chaman Lal Goyal](#), (1995) 2 SCC 570; [State of Andhra Pradesh v. N. Radhakishan](#), AIR 1998 SC 1833; [M.V. Bijlani v. Union of India & Ors.](#), AIR 2006 SC 3475; [Union of India & Anr. v. Kunisetty Satyanarayana](#), AIR 2007 SC 906; [The Secretary, Ministry of Defence & Ors. v. Prabash Chandra Mirdha](#), AIR 2012 SC 2250; and [Chairman, LIC of India & Ors. v. A. Masilamani, JT](#) (2012) 11 SC 533).

Enquiry – on vague charges :

15. [In Surath Chandra Chakravarty v. The State of West Bengal](#), AIR 1971 SC 752 this Court held, that it is not permissible to hold an enquiry on vague charges, as the same do not give a clear picture to the delinquent to make out an effective defence as he will be unaware of the exact nature of the allegations against him, and what kind of defence he should put up for rebuttal thereof. The Court observed as under: (SCC p. 553, para 5)

“5.The grounds on which it is proposed to take action have to be reduced to the form of a definite charge or charges which have to be communicated to the person charged together with a statement of the allegations on which each charge is based and any other circumstance which it is proposed to be taken into consideration in passing orders has to be stated. This rule embodies a principle which is one of the specific contents of a reasonable or adequate opportunity for defending oneself. If a person is not told clearly and definitely what the allegations are on which the charges preferred against him are founded, he cannot possibly, by projecting his

own imagination, discover all the facts and circumstances that may be in the contemplation of the authorities to be established against him.” (emphasis supplied)

16. *Where the chargesheet is accompanied by the statement of facts and the allegations are not specific in the chargesheet, but are crystal clear from the statement of facts, in such a situation, as both constitute the same document, it cannot be held that as the charges were not specific, definite and clear, the enquiry stood vitiated. Thus, nowhere should a delinquent be served a chargesheet, without providing to him, a clear, specific and definite description of the charge against him. When statement of allegations are not served with the chargesheet, the enquiry stands vitiated, as having been conducted in violation of the principles of natural justice. Evidence adduced should not be perfunctory, even if the delinquent does not take the defence of, or make a protest with against that the charges are vague, that does not save the enquiry from being vitiated, for the reason that there must be fair-play in action, particularly in respect of an order involving adverse or penal consequences. What is required to be examined is whether the delinquent knew the nature of accusation. The charges should be specific, definite and giving details of the incident which formed the basis of charges and no enquiry can be sustained on vague charges. (Vide: [State of Andhra Pradesh & Ors. v. S. Sree Rama Rao](#), AIR 1963 SC 1723; [Sawai Singh v. State of Rajasthan](#), AIR 1986 SC 995; [U.P.S.R.T.C. & Ors. v. Ram Chandra Yadav](#), AIR 2000 SC 3596; [Union of India & Ors. v. Gyan Chand Chattar](#), (2009) 12 SCC 78; and [Anil Gilurker v. Bilaspur Raipur Kshetria Gramin Bank & Anr.](#), (2011) 14 SCC 379).*

17. *The purpose of holding an enquiry against any person is not only with a view to establish the charges levelled against him or to impose a penalty, but is also conducted with the object of such an enquiry recording the truth of the matter, and in that sense, the outcome of an enquiry may either result in establishing or*

vindicating his stand, and hence result in his exoneration. Therefore, fair action on the part of the authority concerned is a paramount necessity.

29. In the present case, the incident pertains to June, 2014 and judicial enquiry was concluded on 10.10.2014 and the action of the applicant is mentioned in paragraph 44 and 45 of the judicial inquiry report. The applicant has challenged those finding/remarks regarding the applicant, which has been expunged by the Hon'ble High Court of Madhya Pradesh, Bench at Indore vide order dated 21.04.2016 (Annexure A-6). Moreover, the chargesheet has been served upon the applicant on 24.06.2016, that too after more than two years from the date of incident. Furthermore, the applicant has replied to the chargesheet vide Annexure A-8 dated 07.07.2016 and till date no Inquiry Officer has been appointed nor the chargesheet against the applicant has been withdrawn. The request made by the applicant for deputation was refused and moreover the selection grade of the applicant has been withheld on the ground of pendency of chargesheet. Therefore, while looking into these aspects and also going through the reply filed by the applicant to the chargesheet, there is violation of principles of natural justice and also the law settled by the Hon'ble Apex Court, as discussed supra. On the one hand, the respondents are not taking action on

the reply filed by the applicant to the chargesheet served upon him and on the other hand, the applicant's request for deputation has been refused and his selection grade has been withheld.

30. In view of the above discussions, we are of the view that the action of the respondents Nos.2 & 3 is illegal and the chargesheet (Annexure A-7) is quashed and set aside.

31. Accordingly, O.A is allowed. There shall be no order as to costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

am/-