

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.4027 of 2017

Orders reserved on : 13.03.2019

Orders pronounced on : 27.03.2019

Hon'ble Ms. Nita Chowdhury, Member (A)

Hon'ble Mr. S.N. Terdal, Member (J)

Chetan Bhatia, aged – 44 years,
S/o Sh. Jagdish Kumar,
Working as Adhoc Danics
GNCT of Delhi, New Delhi
R/op 2/4978, Shiv Nagar, Koral Bagh,
New Delhi-5.

....Applicant

(By Advocate : Shri A.K. Behera with Shri Yogesh Sharma)

VERSUS

1. Govt. of NCT of Delhi through
The Chief Secretary,
Delhi Secretariat,
I.P. Estate, New Delhi.
2. The Secretary (Revenue),
Revenue Department, Govt. of NCT of Delhi,
5, Shamnath Marg, Delhi-54.

.....Respondents

(By Advocate : Shri G.D. Chawla for Mrs. Harvinder Oberai)

ORDER

Ms. Nita Chowdhury, Member (A):

By filing this OA, the applicant is seeking the following
reliefs:-

- “(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the impugned charge sheet dated 27.1.2017, (A/1) and whole inquiry proceedings declaring to the effect that the same are illegal, unjust, against the rules and against the principle of natural justice, against the rules and against the principle of

natural justice and consequently the applicant is entitled for all the consequential benefits.

- (ii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant along with the costs of litigation."

2. When this matter was taken up for hearing on 7.3.2019, this Bench passed the following orders:-

"When the matter is taken up, it is noted that only proxy counsel appears for the applicant. On previous date also, the applicant had sought an accommodation on 05.02.2019. Despite the fact that the respondents had opposed the same because there is an interim order in this matter and it had been made clear on 08.01.2019 also that no further time shall be given in this matter, the matter was listed for today for final hearing.

It is the case of the respondents that the applicant has only been charge-sheeted and ordinarily, no interim direction should be given by the Tribunal to stay the charge-sheet. They placed their reliance on the decision of the Apex Court in the case of Secretary, Ministry of Defence & Ors. Vs. Prakash Chandra. In the said case, the Hon'ble Apex Court has taken a view that insofar as initiation of inquiry is concerned, the matter can only be decided ordinarily when the inquiry is complete. Hence, the inquiry at the initial stage should not be stayed. The applicant's counsel is given a last opportunity to address the matter.

The matter shall remain on Board."

In view of the above facts and circumstances, we heard learned counsel for the parties.

3. Counsel for the respondents submitted that applicant is challenging in this case only a chargesheet. The said charges read as under:-

"Article-I

That the said Sh. Chetan Bhatia, Ad-hoc DANICS, while functioning as Sub-Divisional Magistrate (Kapashera) during the year 2016, committed gross misconduct in as much as he misused his official position in unauthorisedly occupying the land, bearing plot No.16 (1-11) in Khasra No.56/11 at Kanganheri Road, Risal Vihar, Chhawla, New Delhi.

By the above acts of omission & commission, the aforesaid Sh. Chetan Bhatia, Ad-hoc DANICS, exhibited lack of integrity and devotion to duty, which is unbecoming of a Govt. servant, thereby violating the provisions of Rule 3 of CCS (Conduct) Rules, 1964.

Article-II

That the said Sh. Chetan Bhatia, Ad-hoc DANICS, while functioning in the aforesaid post during the aforesaid period, committed gross misconduct in as much as he misused his official position in intimidating the owner and his family members of the aforesaid piece of land.

By the above acts of omission & commission, the aforesaid Sh. Chetan Bhatia, Ad-hoc DANICS, exhibited lack of integrity and devotion to duty, which is unbecoming of a Govt. servant, thereby violating the provisions of Rule 3 of CCS (Conduct) Rules, 1964.”

4. Counsel further submitted that having regard to the aforesaid charges, it is apparent that the same are of very serious nature and as such these charges do not by any means come within the exception sought to be shown by the learned counsel for the applicant that the applicant has discharged only his quasi-judicial duties in good faith in accordance with power of ‘Act’ and in such situation issuance of charge sheet for taking disciplinary action against the applicant only on the basis of one complaint is totally illegal. In support of his contention learned counsel for the applicant

relied upon the Hon'ble Supreme Court's judgment in the case of ***Union of India and others vs. Upendra Singh***, (1994) 3 SCC 357, the relevant portion of the said judgment reads as under:-

“6. 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. The function of the court/tribunal is one of judicial review, the parameters of which are repeatedly laid down by this Court. It would be sufficient to quote the decision in ***H.B. Gandhi, Excise and Taxation Officer-cum-Assessing Authority, Kamal v. Gopi Nath & Sons***, 1992 Supp (2) SCC 312. The Bench comprising M.N. Venkatachaliah, J. (as he then was) and A.M. Ahmadi, J., affirmed the principle thus : (SCC p. 317, para 8)

"Judicial review, it is trite, is not directed against the decision but is confined to the decision-making process. Judicial review cannot extend to the examination of the correctness or reasonableness of a decision as a matter of fact. The purpose of judicial review is to ensure that the individual receives fair treatment and not to ensure that the authority after according fair treatment reaches, on a matter which it is authorized by law to decide, a conclusion which is correct in the eyes of the Court. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It will be erroneous to think that the Court sits in judgment not only on the correctness of the decision making

process but also on the correctness of the decision itself.""

5. On the other hand, counsel for the respondents placed reliance on the decision of the Apex Court in the case of **Secretary, Min. of Defence & Ors. vs. Prabhash Chandra Mirdha** in Civil Appeal No.2333/2007 decided on 30.4.2007.

The relevant portion of the said judgment reads as under:-

"9. Law does not permit quashing of chargesheet in a routine manner. In case the delinquent employee has any grievance in respect of the chargesheet he must raise the issue by filing a representation and wait for the decision of the disciplinary authority thereon. In case the chargesheet is challenged before a court/tribunal on the ground of delay in initiation of disciplinary proceedings or delay in concluding the proceedings, the court/tribunal may quash the chargesheet after considering the gravity of the charge and all relevant factors involved in the case weighing all the facts both for and against the delinquent employee and must reach the conclusion which is just and proper in the circumstance. (Vide: The State of Madhya Pradesh v. Bani Singh & Anr., AIR 1990 SC 1308; State of Punjab & Ors. v. Chaman Lal Goyal, (1995) 2 SCC 570; Deputy Registrar, Cooperative Societies, Faizabad v. Sachindra Nath Pandey & Ors., (1995) 3 SCC 134; Union of India & Anr. v. Ashok Kacker, 1995 Supp (1) SCC 180; Secretary to Government, Prohibition & Excise Department v. L. Srinivasan, (1996) 3 SCC 157; State of Andhra Pradesh v. N. Radhakishan, AIR 1998 SC 1833; Food Corporation of India & Anr. v. V.P. Bhatia, (1998) 9 SCC 131; Additional Supdt. of Police v. T. Natarajan, 1999 SCC (L&S) 646; M.V. Bijlani v. Union of India & Ors., AIR 2006 SC 3475; P.D. Agrawal v. State Bank of India & Ors., AIR 2006 SC 2064; and Government of A.P. & Ors. v. V. Appala Swamy, (2007) 14 SCC 49).

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11. Ordinarily a writ application does not lie against a chargesheet or show cause notice for the reason that it does not give rise to any cause of action. It does not amount to an adverse order which affects the right of

any party unless the same has been issued by a person having no jurisdiction/competence to do so. A writ lies when some right of a party is infringed. In fact, chargesheet does not infringe the right of a party. It is only when a final order imposing the punishment or otherwise adversely affecting a party is passed, it may have a grievance and cause of action. Thus, a chargesheet or show cause notice in disciplinary proceedings should not ordinarily be quashed by the Court. (Vide : State of U.P. v. Brahm Datt Sharma, AIR 1987 SC 943; Executive Engineer, Bihar State Housing Board v. Ramesh Kumar Singh & Ors., (1996) 1 SCC 327; Ulagappa & Ors. v. Div. Commr., Mysore & Ors., AIR 2000 SC 3603 (2); Special Director & Anr. v. Mohd. Ghulam Ghouse & Anr., AIR 2004 SC 1467; and Union of India & Anr. v. Kunisetty Satyanarayana, AIR 2007 SC 906)."

Respondents also placed reliance on the decision of Jabalpur Bench of this Tribunal in OA No.505/2011 (**Azim Baksh vs. GM, Western Railways**) decided on 5.10.2016, the relevant portions of the same read as under:-

"3. In this case, interim stay was granted by order dated 12.07.2011, which is still continuing.

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9. The matter before us is very simple. The charge against the applicant is of misbehavior with office staff, who were trying to deliver him a letter of allotment of his quarter. It also appears that there have been quarrels between applicant and different employees, which has resulted in the respondents deciding to change his quarter. There has also been cases and counter cases between the applicant and other employees. It is impossible for the Tribunal to adjudicate at the stage of charge-sheet whether it is correct or motivated. The truth can be ascertained only by the departmental authorities if the departmental action is allowed to proceed unimpeded."

6. After hearing the learned counsel for the parties and having carefully perused the material placed on record, we

are of the considered opinion that having regard to the nature of the charges levelled against the applicant, exception sought to be shown by the learned counsel for the applicant is not sustainable in the eyes of law in this case. Similar issue of challenge to the charge sheet has also been adjudicated by this Tribunal in OA No.364/2013 in which this Tribunal vide Order dated 4.12.2018 held as under:-

“26. We do not find any basis to interfere with the charge memorandum dated 12.01.2007, or the order dated 22.02.2010. The matter has already been delayed almost by a decade, and it cannot brook any further delay. It is in the interest of the applicant also that the matter is given a quietus, so that, if he emerges as innocent, his avenues of promotions and upward movement are not adversely affected. We also take note of the fact that the criminal proceedings are yet to take a final shape. Even if they are said to be pending in any manner, that would not come in the way of the disciplinary proceedings, in view of the judgment of the Hon’ble Supreme Court in **Capt. M. Paul Anthony v Bharat Gold Mines Ltd.** [(1999) 3 SCC 679], wherein it was held that if the criminal proceedings are likely to take much time for conclusion, the disciplinary proceedings can be continued.

27. We, therefore, dismiss the OA, and direct the disciplinary authority to expedite the disciplinary proceedings, and conclude them within a period of six months from the date of receipt of this order. There shall be no order as to costs.”

In view of the above, having regard to the aforesaid observations of the Hon’ble Supreme Court in the case of **Prabhash Chandra Mirdha** (supra) and also of this Tribunal in OA 364/2013 and also of Jabalpur Bench of this Tribunal in above cases, we do not find any merit in this OA and the same is accordingly dismissed.

7. Accordingly, interim order granted vide Order dated 20.11.2017 stands vacated. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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