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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 8254/2016 & CM No. 34212-14/2016

SUMAN KUMAR ..... Petitioner

Through: Mr. Naushad Ahmed Khan & Mr. Prateek Tushar Mohanty, Advs.

Versus

POWERGRID CORPORATION OF INDIA LIMITED AND ORS ..... Respondents

Through: Mr. Nishant Awana & Ms. Rini Badoni, Advs.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% 19.09.2016

The petitioner challenges the charge sheet dated 03.03.2015 and the show cause notice dated 03.08.2016, issued against him by the respondent on the following grounds:

> "....7. The Charge Sheet dated 03.03.2015 is illegal for, inter alia, the following reasons:
>
> (a) It has not been made clear under what Rule has the Charge Sheet been issued (whether it was a minor Penalty Charge-Sheet or a Major Penalty Charge Sheet) and in these circumstances can at best be taken to be a Minor Penalty Charge-Sheet [See the judgment of the Constitution Bench of the Hon'ble Supreme Court in *The State of West Bengal v. Anwar Ali Sarkarhabib*, AIR 1952 SC 75: 1952 SCR 284].
> (b) There are no Documents or Witnesses listed in the Charge Sheet that could prove the allegations.

Therefore, the denial of the allegations by the Petitioner would automatically close the case.

(c) The Charge Sheet is bad in law due to Undue Delay.

(d) The Reply dated 10.03.2015 to the Charge Sheet has not been considered and disposed by a reasoned and speaking order, making any follow-up action bad in law.

(e) The Charge Sheet is not in the proper format meant for the purpose.

(f) The Charge Sheet is based on an Anonymous/Pseudonymous Complaint and cannot be proceeded with under the Rules and the Law.

(g) The allegations in the Charge Sheet are factually incorrect.

(h) The allegations in the Charge Sheet are de hors the Powergrid Conduct, Discipline and Appeal Rules.

(i) The allegations in the Charge Sheet are bland and are without any details and would not stand the test of law.

(j) Even if the allegations in the Charge Sheet are taken to be correct, it would not amount to misconduct.

(k) An incompetent Disciplinary Authority has approved the Charge Sheet, making it non-est in law.

(l) As the allegation in the Charge Sheet is one of concealment, the requirement of law is proof beyond doubt, which is not the case here.

(m) The present case is one of no evidence and has to be closed.

8. The Show Cause Notice dated 03.08.2016 is illegal for, inter alia, the following reasons:

(a) No action can be taken against an Employee only on the ground that another Employee has been found guilty in a Disciplinary Proceedings.

(b) The Charged Officer has not been put to notice of all the material to be used against her and has to be given a chance to rebut the same. Principles of Natural Justice entail the same. [See Dhakeswar Cotton Mills Ltd. v. Commissioner of Income Tax, West Bengal, AIR 1955 SC 65: SCR (1) 941].

(c) The Show Cause Notice is also bad in law due to Undue Delay.

(d) There is no Rule under which a Show Cause Notice could have been issued.

(e) An incompetent disciplinary Authority has approved the Show Cause Notice, making it non-est in law.

(f) The Show Cause Notice is at least Malice in Law.

(g) The Show Cause Notice is also a fraud on the system.

(h) As there are no allegations of conspiracy between the petitioner and the said other Employee (Shri S.S. Prasad), the Show Cause Notice is misplaced.

(i) The Show Cause Notice rests on extraneous material, which cannot be used to pin blame on the petitioner.

(j) The Show Cause Notice is discriminatory, calling for Primary Review.

(k) The insinuations in the Show Cause Notice against the Petitioner are false.

(l) The Show Cause Notice, being the follow-up of the Charge Sheet dated 03.03.2015 has the same infirmities written into it that are present in the Charge Sheet...”

No precipitate action has been taken against the petitioner. The petition is premature and is accordingly not maintainable.

The learned counsel for the respondent, who appears on receipt of an advance copy states that the representation of the petitioner is under consideration by the authority concerned and the same will be dealt with by due compliance of the law and the aforesaid contentions shall be taken into consideration.

The petition is disposed off in the above terms.

The court has not expressed any opinion on the merits of the case.

NAJMI WAZIRI, J.

SEPTEMBER 19, 2016

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