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HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 3 of 2020***{Arising out of order dated 14.11.2019 passed by the learned Single Judge in
WPS No. 9260 of 2019}*

Pawan Kumar Meshram S/o. Late W R Meshram Aged About 60 Years Presently Working As Executive Engineer, Rural Engineering Service, Department of Panchayat And Rural Development, Jagdalpur District Bastar Chhattisgarh.

---- Appellant**Versus**

State of Chhattisgarh Through The Secretary, Panchayat and Rural Development, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur Chhattisgarh.

---- Respondent

For Appellant	:	Shri N. Naha Roy, Advocate.
For Respondent	:	Shri Ghanshyam Patel, Government Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge
Judgment on Board

Per Parth Prateem Sahu, Judge**16.01.2020**

1. Challenge in this appeal is to the order dated 14.11.2019 passed by the learned Single Judge in Writ Petition (S) No. 9260 of 2019, whereby the learned Single Judge declined to grant relief as sought by the Appellant and dismissed the writ petition.
2. The crux of the case is that the Appellant is working as Executive Engineer, in Rural Engineering Service, Department of Panchayat and Rural Development, Jagdalpur, District Baster, (C.G.).

3. On certain allegation of misconduct, the Appellant was suspended on 20.06.2019 and thereafter, a charge sheet was issued on 12.09.2019. This charge sheet was challenged by the Appellant before the learned Single Judge in Writ Petition (S) No. 9260 of 2019 on the ground that the charges levelled against the Appellant are vague as it does not disclose any misconduct on the part of Appellant by which he could be punished. The charges levelled is not clear and violates principle of Natural Justice. The learned Single judge after giving deep consideration to the contents of charge sheet annexed alongwith writ petition have arrived at the conclusion that the charges levelled against the Appellant does not show that even after admitting the complete charges levelled against him, would exonerate him from the charges and dismissed the writ petition.
4. The learned counsel for the Appellant submits that there is no allegation against him with regard to any act done by him for his own profit or he has gain something from act committed by him during the discharge of his duties. He also submits that no purpose will be served for letting the departmental enquiry to be completed on the face of the charge sheet issued by the Department. He also submits that the Appellant is going to retire within a period of one year and in the identical circumstances the Hon'ble Supreme Court in the matter of ***Transport Commissioner, Madras-5 vs. A. Radha Krishna Moorthy*** reported in ***(1995) 1 SCC 332*** has passed an order in favour of the employee therein.
5. Per contra, learned counsel representing the Respondent-State submits that perusal of the charge sheet will itself show that the Appellant has committed misconduct in discharge of his duties which is apparent and as many as four charges has been levelled against him. He also refers to paragraph 5 of the impugned order in support of his submissions and submits that the learned Single Judge, after considering each charges levelled against the Petitioner

minutely has arrived at the conclusion that there is no possibility, that the Appellant can be exonerated even after the acceptance of his all the allegations levelled against him.

6. We have considered the submissions of the learned counsel for the Appellant as well as the learned counsel representing for the Respondent-State.
7. It is a settled law that the issuance show cause notice or the charge sheet to any employee alleging misconduct is not to be interfered with before conclusion of Departmental Enquiry. It is only the outcome of the enquiry based on the charge sheet which will form an order affecting rights of Appellant if any, is liable to be challenge before the Court or Appellate authority. The Hon'ble Supreme Court in the matter of ***Transport Commissioner*** (supra) relied upon by learned counsel for the Appellant itself speaks that normally no interference should be made with issuance of charge sheet before conclusion of Departmental Enquiry in paragraph 7, which is reproduced herein below for easy reference:

“7. So far as the truth and correctness of the charges is concerned, it was not a matter for the Tribunal to go into-more particularly at a stage prior to the conclusion of the disciplinary enquiry. As pointed out by this Court repeatedly, even when the matter comes to the Tribunal after the imposition of punishment, it has no jurisdiction to go into truth of the allegations/charges except in a case where they are based on no evidence, i.e., where they are perverse. The jurisdiction of the Tribunal is akin to that of the High Court under Article 226 of the Constitution. It is power of judicial review. It only examines the procedural correctness of the decision making process. For this reason the order of the Tribunal insofar as it goes into or discusses the truth and correctness of the charges, is unsustainable in law.”

8. The learned Single Judge has considered each allegations levelled against the Appellant in detailed and found that it is not a case of a nature to be

interfered at the stage of issuance of charge sheet. Para 5 & 6 of the impugned order is extracted below:

“5. Perused the charge sheet. There are as many as four charges were levelled. The Charge no.1 pertains to that the contingency funds were kept in the Sundry deposit and from that Sundry deposit the payments were made to the Data Entry Operator, Guard etc. However, the budget was not approved to make payment to them like wise. The Charge No.2 would show that in respect of the construction of a stadium wrong agency was deployed to compel the construction and delay was caused in completion of the construction by avoiding obeying directions of the higher officials. The Charge No.3 is with respect to construction of bathroom and provide the drinking water which was to be completed on or before 09.07.2018 but the contractor did not complete it till 28.03.2019. The allegations made that despite such delay, the payment was made to the contractor and against the norms, every payment was made to the contractor which was not payable to him. Further allegation is that like wise another hall was to be constructed wherein despite delay in time though not extended the payment was made to the contractor. The Charge No. 4 was that in a project though the amount was sanctioned for payment to the contractor for a construction of some building, despite such sanctioned was made, the payment was not released to the contractor, which eventually delayed the construction.

6. Reading of the aforesaid charges it does not give an impression in the mind that such charges if are accepted by the petitioner would exonerate him of the allegations. The level of allegation which has been made certainly required to be gone into by the departmental inquiry. It is not the stage that the Court is deciding a case where in all the statements of the witnesses are recorded or documents are before it and finding of departmental enquiry is before it.”

9. Taking into consideration the law laid down by Hon'ble Supreme Court. We do not find any infirmity in the reasoning given by the learned Single Judge in its order for dismissing the writ petition. The appeal being devoid of any substance which is liable to be and is hereby dismissed. However, looking to the period left for superannuation of the Appellant, the Respondents are directed to conclude the departmental enquiry within a period of six months

from the date of the production of a certified copy of the order. The Appellant is also directed to cooperate in the departmental enquiry and he will not take any unnecessary adjournments.

10. With the aforesaid observation and direction, the appeal is disposed off.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge