2024:PHHC:019688

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.1372 of 2024 (O&M)
Reserved on: 30.01.2024
Pronounced on: 21.02.2024

Baljeet Singh

....Petitioner

Versus

State of Punjab and Others

....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sandeep Singh, Advocate
for the petitioner.

NAMIT KUMAR J.

1. The petitioner has invoked the jurisdiction of this Court by filing the present petition under Article 226 of the Constitution of India, seeking a writ of certiorari for quashing the charge-sheet dated 30.11.2023 (Annexure P-12) on the ground that the same cannot be issued after his retirement.

2. Brief facts of the case, as have been pleaded in the petition, are that the petitioner joined the erstwhile Punjab State Electricity Board (PSEB) now Punjab State Power Corporation Limited (PSPCL) as Lineman on 11.08.1987 and was further promoted to the post of Junior Engineer on 28.02.1996. The Punjab State Electricity Board was formed in the year 1959 under the Electricity Supply Act, 1948, which was unbundled into two companies under 'Punjab Power Sector Reforms Transfer Scheme, 2010' into 'Punjab State Power Corporation Limited' and Punjab State Power Transmission Limited, vide Notification dated 16.04.2010 (Annexure P-1)and in terms of the said Transfer Scheme, all

the rights, liabilities, assets including the personnel of the erstwhile PSEB, were transferred to respondent – Corporation, in terms of Clause 6(5) thereof. Further in terms of Clause 6(6) of the Scheme, the respondent – Corporation was enabled to frame 'regulations' governing the service conditions of the personnel which stood transferred under the scheme and till such time the existing service rules/regulations of the erstwhile board shall apply. To put in perspective, in terms of Clause 6(6) of the Transfer Scheme, the respondent – Corporation is only competent to frame regulations governing conditions of personnel.

3. After serving for about 17 years as Junior Engineer, the petitioner was further promoted to the post of Additional Assistant Engineer on 24.12.2012 and as Assistant Engineer/S.D.O. on 31.05.2019. It has further been averred that on 11.12.2019 (Annexure P-4), vide Finance Circular No.22 of 2019, the Board of Directors in its 78th Meeting held on 27.11.2019 (Annexure P-5) granted approval to adopt the Punjab Civil Services, Volume II Part I (Pension Rules) and vide Memo dated 26.07.2021 (Annexure P/6), it was further resolved that the competent authority will be the BOD's in place of government for applicability of Rule 2.2(b) of Punjab Civil Services Rules, Volume II for sanction of departmental proceedings in Punjab State Power Corporation Limited in case an officer/official has retired before institution of such proceedings. However, all other provisions contained in the Rule will be applicable and to avoid unnecessary delay Chief Managing Director, PSPCL, is authorized to sanction the departmental proceedings against the individual retiree(s) and further in joint

proceeding cases recommended after preliminary investigation in which retired along with serving officers/officials are involved the sanction of CMD, PSPCL should be obtained subject to ratification of BOD's being competent authority under the Rule.

4. The petitioner was transferred on 26.05.2023 to Shri Guru Gobind Singh Super Thermal Plant, Rupnagar (in short 'GGSSTP'), where he remained posted and on attaining the age of 58 years, the petitioner was superannuated on 30.11.2023 from GGSSTP, Rupnagar. It is the case of the petitioner that after the petitioner retired on 30.11.2023, he was issued charge-sheet dated 30.11.2023 (Annexure P-12), which was received by him by registered post on 04.12.2023, which is being impugned in the present petition.

5. Learned counsel for the petitioner contends that since the petitioner had already retired on attaining the age of superannuation on 30.11.2023, therefore, the said charge-sheet dated 30.11.2023 (Annexure P-12) received by him on 04.12.2023 is non-est and cannot proceed further as the employee-employer relationship got snapped on 30.11.2023. He submits that even otherwise, the same has been issued without the sanction of the CMD as provided under Rule 2.2 (b). He has placed reliance on the Division Bench judgment of Andhra Pradesh High Court in ***"Government of Andhra Pradesh and others vs M. Ramachandram and others",*** **2014(6) Andh LD 331**.

6. I have heard learned counsel for the petitioner and perused the record.

7. Before proceeding further, it would be relevant to give

reference to Rule 2.2.(b) of the Punjab Civil Services Rules, Volume 2 (Pension), which reads as follows:-

> *"**2.2. Recoveries from pensions.**–(a) Future good conduct is an implied condition of every grant of a pension. The Government reserve to themselves the right of withholding or withdrawing a pension or any part of it if the pensioner be convicted of serious crime or be guilty of grave misconduct.*
>
> *In a case where a pensioner is convicted of a serious crime, action shall be taken in the light of the judgment of the court relating to such conviction.*
>
> *In a case not covered by the preceding paragraph, if the Government considers that the pensioner is prima facie guilty of grave misconduct, it shall before passing an order,–*
>
> > *(i) serve upon the pensioner a notice specifying the action proposed to be taken against him and the grounds on which it is proposed to be taken and calling upon him to submit, within sixteen days of the receipt of the notice or such further time not exceeding fifteen days, as may be allowed by the pension sanctioning authority, such representation as he may wish to make against the proposal; and*
> >
> > *(ii) take into consideration the representation, if any, submitted by the pensioner under sub-clause (i).*
>
> *Where a part of pension is withheld or withdrawn the amount of such part of pension shall not ordinarily exceed one-third of the pension originally sanctioned nor shall the amount of pension left to the pensioner be ordinarily reduced to less than three thousand five hundred rupees per month, having regard to the consideration whether the amount of the pension left to the pensioner, in any case, would be adequate for his maintenance.*

In a case where an order under clause (i) above is to be passed by the Government, the Public Service Commission shall be consulted before the final order is passed.

The decision of the Government on any question of withholding or withdrawing the whole or any part of the pension under this rule shall be final and conclusive.

***Explanation**.–In this rule, the expression "serious crime" includes crime involving, an offence under the Official Secrets Act, 1923 (19 of 1923); and the expression "grave misconduct" includes the communication or disclosure of any secret, official code or pass-word or any sketch, plan, model, article, note, document or information such as is mentioned in section 5 of the Official Secrets Act, 1923 (19 of 1923) (which was obtained while holding office under the Government) so as to prejudicially affect the interests of the general public or the security of the State.*

Note.–A claim against the Government employee may become known and the question of making recovery may arise:–

> *(a) when the calculation of pension is being made and before the pension is actually sanctioned; or*
>
> *(b) after the pension has been sanctioned.*
>
> *The claim and the recovery may be one or other of the following categories:–*
>
> *(1) Recovery as a punitive measure in order to make good loss caused to Government as a result of negligence or fraud on the part of the person concerned while he was in service.*
>
> *(2) Recovery of other Government dues such as over issues of pay, allowances or leave salary, or admitted and obvious dues such as house-rent, Postal Life Insurance premia, outstanding motor car, house building,*

travelling allowance or other advances.

(3) Recovery of non-Government dues.

1. In cases falling under (a) above, none of the recoveries mentioned in (1) to (3) above may be effected by a reduction of the pension about to be sanctioned except in the following circumstances:–

(i) Omitted.

(ii) When the pensioner by request made or consent given has agreed that the recovery may be made. If such request is not made or consent is not given by the pensioner, even sums admittedly due to Government such as houserent, outstanding advances, etc., may not be recovered from pension. In such cases, however, the executive authorities concerned would have to consider whether they should not try to effect the recovery otherwise than from pension, for example, by going to a court of law, if necessary.

2. In cases falling under (b) above, none of the recoveries described in clauses (1) to (3), may be effected by the deduction from a pension already sanctioned except at the request or with the express consent of the pensioner. Under rule 2.2(a), of this Volume, future good conduct is an implied condition of every grant of a pension and a pension can be withheld or withdrawn in whole or in part if the pensioner is convicted of serious crime or is guilty of grave misconduct. This, however, refers only to crime or misconduct occurring after the pensioner has retired from service, and the rule would not, therefore, cover a reduction of pension made for the purpose of retrieving loss caused to Government as a result of negligence or fraud on the part of the pensioner occurring before he had retired from service.

In cases where the pensioner does not agree to recovery being made even of sums admittedly due to Government, the concluding remarks made under 1(ii) *above, will also be applicable.*

Heads of offices should see that the last pay or leave salary prior to retirement shall not be paid until it is clear that a retiring Government employee has no outstanding dues to Government. Sometimes, it may not be practicable to ascertain in time all the outstanding dues, while sometimes dues may exceed the amount of last pay or leave salary. In such cases, it is the duty of the heads of offices (in consultation with Treasury officers and Accountant-General, Punjab in the case of Group 'A' or Group 'B' officers), to bring promptly to the notice of the Accountant-General, Punjab, all the outstanding amounts by a separate communication, stating in detail the nature of recovery and why it has not been possible to effect it from last pay or leave salary. The outstanding amounts should also be clearly and completely noted in the last pay certificates in sufficient detail with reference to the previous correspondence with the Accountant-General, Punjab, and if the recovery is to be effected from pension, it should be clearly recorded on the last pay certificate itself that the request or express consent of the pensioner in writing to the recovery from his pension has been obtained.

Note 1.–Although compassionate allowance is of the nature of an ex-gratia payment it is really a form of pension and, therefore, recoveries from it, once it is sanctioned, should be governed by the above orders.

Direct recovery of Government dues from Compassionate Allowance is not permissible, under these orders, but recovery may be made indirectly (before the allowance is sanctioned) by reducing the allowance either permanently or as a temporary measure.

Note 2.–Strictly speaking under the orders no recovery of amount is permissible from pension but if final recovery has been made it need not be refunded to the *pensioner concerned.*

(b) The Government further reserve to themselves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if, in a departmental or judicial proceeding, the pensioner is found guilty of grave mis-conduct or negligence during the period of his service, including service rendered upon re-employment after retirement:

Provided that–

(1) Such departmental proceedings, if instituted while the officer was in service, whether before his retirement or during his re-employment, shall after the final retirement of the officer, be deemed to be a proceeding under this article and shall be continued and concluded by the authority by which it was commenced in the same manner as if the officer had continued in service;

(2) Such departmental proceedings, if not instituted while the officer was in service whether before his retirement or during his re-employment–

(i) shall not be instituted save with the sanction of the Government;

(ii) shall not be in respect of any event which took place more than four years before such institution; and

(iii) shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the officer during his service.

(3) No such judicial proceedings, if not instituted while the officer was in service, whether

before his retirement or during his re-employment shall be instituted in respect of a cause of action which arose or an event which took place more than four years before such institution; and

The Public Service Commission should be consulted before final orders are passed.

Explanation.–For the purpose of this rule–

(a) a departmental proceeding shall be deemed to be instituted on the date on which the statement of charges is issued to the officer or pensioner, or if the officer has been placed under suspension from an earlier date, on such date; and

(b) a judicial proceeding shall be deemed to be instituted–

> *(i) in the case of a criminal proceeding, on the date on which the complaint or report of the police officer on which the Magistrate takes cognizance, is made; and*
>
> *(ii) in the case of a civil proceeding, on the date of presentation of the plaint in the court.*

Note:–As soon as proceedings of the nature referred to in the above rule are instituted, the authority which institutes such proceedings should without delay intimate the fact to the Accountant-General. The amount of the pension withheld under clauses (b) should not ordinarily exceed one-third of pension originally sanctioned, including any amount of pension to be so withheld, regard should be had to the consideration whether the amount of the pension left to the pensioner in any case would be adequate for his maintenance."

8. It is the case of the petitioner that the charge-sheet dated 30.11.2023 (Annexure P-4) was issued on 01.12.2023 by registered

post, which was received by the petitioner on 04.12.2023 after the petitioner had already superannuated and therefore, the same is liable to be set-aside as no charge-sheet can be issued after the retirement when there was no employee-employer relationship.

9. A perusal of the charge-sheet dated 30.11.2023 (Annexure P-12) would show that the same has been issued on 30.11.2023 and in Para 1 of the forwarding letter itself, it is mentioned that the same be handed over to him and acknowledgment thereof along with date be obtained and be sent to this office for records. Para 1 and 2 (e) of the forwarding letter dated 30.11.2023, reads as under:-

> *"Enclosed letter bearing Memo No. 187/D-12209/T-3 Dated 30.11.2023 which is addressed to Er. Baljit Singh AE, (Code No. 110378* ***be handed over to him and acknowledgment thereof along with date be obtained and be sent to this office for records.****"*
>
> *XXXX XXXX XXXX XXXX*
>
> *"(e) Instead of sending the enclosed letter by post,* ***same be handed over to the concerned officer after calling him/her at your office and acknowledgment receipt under signatures, shall be sent to this office after****.*
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> *This is issued upon the approval of competent authority."*

10. From the perusal of the relieving order of the petitioner dated 30.11.2023 (Annexure P-11), it is clear that the petitioner was posted at GGSSTP, Rupnagar and the charge-sheet was issued to him on 30.11.2023 by the office of PSPCL at Patiala and although, the same was to be served upon the petitioner by hand but however, the same was not served upon him on 30.11.2023 itself, therefore, the same was sent

by registered post on next day i.e. 01.12.2023, which, as per the petitioner, was received by him on 04.12.2023. That does not mean that the charge-sheet has been issued after the retirement of the petitioner rather the same has been issued on the same day i.e. the date of retirement of the petitioner when he was still in service.

A plain reading of Rule 2.2(b) of the Punjab Civil Services Rules (Volume II) provides that the government reserves to themselves the right of withholding or withdrawing a pension or any part of it whether permanently or for a specified period and the right of ordering recovery from a pension on whole or part of any pecuniary loss caused to the government, if any departmental or judicial proceeding, the pensioner is found guilty of grave misconduct or negligence during the period of his service, including service rendered upon re-employment after retirement, provided that such departmental proceedings, if instituted while the officer was in service, whether before his retirement or during his re-employment, shall after the final retirement of the officer be deemed to be a proceeding under this article and shall be continued and concluded by the authority by which it was commenced in the same manner, as if the officer had continued in service.

Sub-rule (2) of Rule 2.2 (b) of the Punjab Civil Services Rules (Volume II) further provides that such departmental proceedings, if not instituted while the officer was in service, whether before his retirement or during his re-employment, shall not be instituted save with the sanction of the government; shall not be in respect of any event which took place more than 04 years before such institution; and shall be conducted by such authority and in such place as the government may direct and in accordance with procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the officer during his service.

Explanation to the said Rule provides that the departmental proceedings shall be deemed to be instituted on the day on which the statement of charges is issued to the officer or pensioner.

11. In the present case, the charge-sheet has been been issued to the petitioner on 30.11.2023, when the petitioner was in service, though it has been served upon him later on but that does not mean that the same has been issued after the retirement of the petitioner, therefore, there was no requirement for any sanction from the competent authority i.e. Board of Directors in the present case.

12. The Hon'ble Supreme Court in ***"Coal India Limited and others vs Saroj Kumar Mishra",*** **(2007) 5 Scale 724**, has held that the departmental proceedings is ordinarily said to be initiated only when a charge-sheet is issued. To the same effect is the judgment of the Hon'ble Supreme Court in ***"State of Madhya Pradesh vs Onkar Chand Sharma",*** **(2001) 9 SCC 171**, and it has been held: -

> *"........It is not disputed that the respondent was placed under suspension on 22-3-1983, the charge-sheet was framed on 5-5-1983 and it was served on the respondent on 6-5-1983. The question is whether disciplinary proceedings can be said to have been initiated by framing of the charge-sheet or only after the charge-sheet has been served on the delinquent employee. In our opinion, disciplinary proceedings can be held to have been initiated*

on the day the charge-sheet has been prepared and signed by the competent authority. In the present case, the charge-sheet had been prepared on 5-5-1983 inasmuch as it was appended to the order dated 5-5-1983 whereby the respondent was required to submit his written statement of defence to the charges. It can, therefore, be said that disciplinary proceedings had been initiated against the respondent on 5-5-1983."

13. The judgment relied upon by learned counsel for the petitioner in M. Ramachandram's case (Supra) does not advance the case of the petitioner. Para 34 of the said judgment, reads as under:-

"34. Therefore, it is obvious that issue of G.O. Rt. Nos.784 and 794, dated 20-06-2007 and 21-06-2007, respectively, since took place prior to retirement of the 1st respondent, by necessary implication, it has to be held that they were prepared and signed culminating into issuance of both the G.Os., and, therefore, it has to be held that they squarely fall within the ambit of Rule 9(2)(b) of the Rules 1980 and consequently, we are of the opinion that there is no infraction of rule 9(2)(b)(ii) of the Rules 1980. The Tribunal, somehow, viewed that the actual service of memo along with articles of charges was a pre-condition and since the same was not occurring, quashed both the G.Os. At this stage itself, it is pertinent to mention that the Tribunal lost sight of the fact that even under G.O. Rt. No.784, dated 20- 06-2007, which relates to the period 2001 2006, the Tribunal wrongly proceeded on the premise that the allegations relate back to 1998-2000, without referring to the allegations levelled against the 1st respondent while he was functioning as T.P.O. in Machiliaptnam Municipality, Machilipatnam."

14. Even otherwise, writ does not lie against a charge-sheet or

show-cause notice as it does not give any cause of action. Unless some adverse order is passed in pursuance to the said charge-sheet, employee has no right to invoke the jurisdiction of the High Court or the Civil Court to impugn the charge-sheet. The Hon'ble Supreme Court in ***The Special Director and another v. Mohd. Ghulam Ghouse and another, 2004(1) S.C.T. 671*** has held that ordinarily no writ lies against the show-cause notice and the writ petition cannot be entertained as a matter of routine. The relevant portion from the said judgment is as under: -

> *"5. This Court in a large number of cases has deprecated the practice of the High Courts entertaining writ petitions questioning legality of the show causes notices stalling enquiries as proposed and retarding investigative process to find actual facts with the participation and in the presence of the parties.* ***Unless, the High Court is satisfied that the show cause notice was totally non est in the eye of law for absolute want of jurisdiction of the authority to even investigate into facts, writ petitions should not be entertained for the mere asking and as a matter of routine****, and the writ petitioner should invariably be directed to respond to the show cause notice and take all stands highlighted in the writ petition. Whether the show cause notice was founded on any legal premises is a jurisdictional issue which can even be urged by the recipient of the notice and such issues also can be adjudicated by the authority issuing the very notice initially, before the aggrieved could approach the Court. Further, when the Court passes an interim order it should be careful to see that the statutory functionaries specially and specifically constituted for the purpose are not denuded of powers and authority to initially decide the*

> *matter and ensure that ultimate relief which may or may not be finally granted in the writ petition is accorded to the writ petitioner even at the threshold by the interim protection, granted."*

15. To the same effect is the judgment of the Hon'ble Supreme Court in ***Union of India and another v. Kunisetty Satyanarayana, 2007(1) S.C.T. 452***, wherein the Hon'ble Supreme Court has held as under: -

> *"12. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide* ***Executive Engineer, Bihar State Housing Board v. Ramdesh Kumar Singh and others, JT 1995(8) SC 331, Special Director and another v. Mohd. Ghulam Ghouse and another, 2004(1) SCT 671 (SC) : AIR 2004 Supreme Court 1467, Ulagappa and others v. Divisional Commissioner, Mysore and others, 2001(10) SCC 639, State of U.P. v. Brahm Datt Sharma and another, AIR 1987 Supreme Court 943*** *etc.*
>
> *13. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is*

only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

14. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge sheet.

15. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter."

16. A Division Bench of this Court in ***Ved Pal Gupta v. Punjab and Haryana High Court, Chandigarh, 2014(2) S.C.T. 793*** has held as under: -

*"15. In Secretary, **Ministry of Defence and others v. Prabhash Chandra Mirdha, 2012 (4) RSJ 484**, it has been laid down by the Supreme Court that ordinarily a writ application does not lie against a charge sheet 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, charge sheet 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 charge sheet or show cause notice in disciplinary proceedings should not ordinarily be quashed by the Court. It was further held that normally a charge sheet is not quashed prior to the conclusion of the inquiry on the ground that the facts stated in the charge sheet are erroneous for the reason that correctness or truth of the charge is the function of the disciplinary authority. It was also held that neither the disciplinary proceedings nor the charge sheet should be quashed at an initial stage as it*

would be a premature stage to deal with the issues. The position prevailing at present in the department inquiry is that a sitting Judge of the High Court on the Administrative side is seized of the inquiry and proceedings are going on. Evidence is being recorded. The petitioner would have every right to submit his point of view in accordance with law before the inquiry officer. Therefore, at this stage, it would be wholly inappropriate to interfere in the inquiry that is going on at an intermediary stage and nullifying or in any case keep in abeyance the proceedings that are going on. At this stage it would in fact even be inappropriate to comment one way or the other on the charges that have been levelled and the reply that has been filed by the petitioner to the same. This is solely domain of the Inquiry Officer who is seized of the matter.

16. The learned Senior counsel for the petitioner has, however, referred to the case ***State of Punjab v. V. K. Khanna, 2001(1) S.C.T. 933 : AIR 2001 Supreme Court 343****. In the said case the learned Senior counsel has laid emphasis on the aspect wherein it has been held that while it is true that justifiability of charges at the stage of initiating a disciplinary proceedings cannot possibly be delved into by any Court pending inquiry but it is equally well settled that in the event there is an element of malice or mala fide motive involved in the matter of issue of a charge sheet or the concerned authority is so biased that the inquiry would be a mere farcical show and the conclusions are well known then and in that event law courts are otherwise justified in interfering at the earliest stage so as to avoid the harassment and humiliation of a public official. It is not a question of shielding any misdeed that the Court would be anxious, it is the due process of law which should permeate in the society and in the event of there being any affectation of such process of law that law courts ought to rise up to the occasion. There is no dispute to said proposition, however, the same would more appropriately apply in case there is a charge of mala fide. In the present case though it has been alleged that the issuance of charge sheet and subsequent proceedings arising therefrom are completely mala fide, baseless and against the record, however, the allegations of mala fide have been made in a vague manner. In* ***State of Punjab v.***

> ***Chamal Lal Goyal, 1995(2) S.C.T. 343 : JT 1995 (2) SC 18*** *with respect to the charge of mala fide, it was observed that the said charge was made in a vague manner. It was not specified which officer was ill-disposed towards the respondent (delinquent official in the said case) and in what manner did he manage to see that the charges are served upon him when his case was to come up for consideration for promotion. It was held that in the absence of any clear allegation against any particular official and in the absence of impleading such person eo nominee so as to enable him to answer the charge against him, the charge of mala fide cannot be sustained. The ratio of the said judgment applies in the present case and in the absence of specific allegations of mala fide, the averment is unfounded and would not warrant any consideration."*

17. For the foregoing reasons, no case to quash the charge-sheet dated 30.11.2023 (Annexure P-11) is made out and the present petition is accordingly, dismissed in limine.

(NAMIT KUMAR)
JUDGE

21.02.2024
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No