

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

Judgment delivered on: March 13, 2024

+ W.P.(C) 3345/2023, CM APPL. 34229/2023

HARI NARAYAN MEENA

..... Petitioner

Through: Mr. M.K. Bhardwaj,
Mrs. Priyanka M. Bhardwaj and
Mr. Arun Prakash, Advs.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Harpreet Singh, Sr. SC with
Mr. Jatin Singh, Mr. Keshav Sehgal,
Mr. Shivam Gaur, Mr. Aryan Kumar,
Mr. Gurmeet Singh Gulati, Advs. for
R-1

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

J U D G M E N T

V. KAMESWAR RAO, J

1. The challenge in this writ petition is to an order dated December 21, 2022, passed by the Central Administrative Tribunal Principal Bench, New Delhi ('Tribunal', for short) in Original Application No.2493/2022 ('OA', for short) whereby the Tribunal has dismissed the OA filed by the petitioner herein by stating as under: -

“Learned counsel for the applicant states that the applicant is aggrieved of the impugned memorandum of



charges and seeks the following reliefs:-

- “a) Quash and set aside the impugned memorandum of charge dated 08.03.2021 passed by the Respondents No. 1, and*
- b) Pass an order or direction to the Respondent No. 1 to consider the Applicant for promotion to the higher post in Senior Administrative Grade, and*
- c) Pass such other and further orders, as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case.”*

2. She also draws our attention to the order dated 12.09.2022 which reads as under:-

“Having heard the learned counsel for the applicant, we issue notice to the respondents. Notice is made returnable after eight weeks. Sh. S.N. Verma, learned counsel accepts notice on behalf of the respondents. Stand over to 07.11.2022. Meanwhile, the respondents shall endeavour to complete the disciplinary inquiry against the applicant as expeditiously as possible. Needless to state that the applicant shall co-operate for expeditious inquiry.”

3. She further states that despite the direction by the coordinate Bench of this Tribunal the respondents are still not going ahead with the enquiry deliberately and delaying the matter. Drawing our attention to the order sheet dated 14.10.2022, signed by the inquiry officer along with the charged officer, presenting officer and the prosecution witness, learned counsel for the applicant says that nothing has been done till date.

4. Learned counsel for the respondents, on the other hand, states that the enquiry is being conducted as per the prescribed procedure. However, he seeks three weeks’ time to file reply.

5. After hearing both the parties at length, we feel that



strictly speaking the scope of judicial intervention at this stage is very limited. In view of the fact that a charge sheet has been issued and the enquiry is being conducted, it is a matter of time, that the same will be concluded for further action. We also note that vide order dated 12.09.2022, the respondents have specifically been directed to endeavor to complete the disciplinary enquiry against the applicant as expeditiously as possible with a further direction to the applicant to cooperate with the enquiry for expeditious disposal.

6. Disciplinary proceedings are required to be carried out as per the procedures prescribed for the same with time-lines attached to certain actions. The applicant is aggrieved of non-adherence to the same despite the directions given by a coordinate Bench of this Tribunal on 12.09.2022. Since the service prospects of the applicant are getting adversely affected by the delay in finalizing the enquiry, we hereby direct the respondents to conclude the enquiry and take further action as per rules and law, preferably within a period of three months from the date of receipt of a certified copy of this order.

7. In terms of the above direction, the present OA is disposed of.

8. No order as to costs.”

2. It is stated that the petitioner has been posted by the respondents twice at Govt. Opium & Alkaloid works, ('GOAW', for short) Neemuch - 458441 (Madhya Pradesh) first, as General Manager (Joint Commissioner) w.e.f. October 29, 2014 to May 13, 2016 and again as General Manager (Joint/Additional Commissioner) w.e.f. July 01, 2016 to October 14, 2018.

3. It is primarily the case of the petitioner that the issue which is arising out of this petition is whether the petitioner while working as



General Manager, GOAW has intentionally availed Travelling Allowance ('TA' for short), twice against a single journey performed from Neemuch to Delhi and return thereof, during the period from July 9, 2015 to July 14, 2015 for which he has received an amount of Rs.9,819/- on September 9, 2015 and again on February 19, 2016 vide TA claims being No.TA/47/15-16 dated August 26, 2015 and TA-91/15-16 dated February 11, 2016, respectively.

4. Mr. M.K. Bhardwaj, learned counsel appearing for the petitioner has tried to negate the fact that the petitioner has claimed the TA twice for the same journey for which the petitioner has been charge sheeted by challenging the very issuance of charge sheet dated March 8, 2021.

5. The charges which are framed against the petitioner are reproduced as under for ready reference:-

"ARTICLE-I

Shri H. N. Meena, Joint Commissioner, while working as General Manager, Government Opium & Alkaloid Works (also referred to as GOAW), Neemuch, intentionally availed travelling allowance twice against a single journey performed from Neemuch to Delhi and return thereof during the period from 09.07.2015 to 14.07.2015 and received an amount of Rs. 9,819/- on 09.09.2015 and again on 19.02.2016 vide T.A claims bearing No. TA-47/15-16 dated 26.08.2015 and TA- 91/15-16 dated 11.02.2016 respectively.

ARTICLE-II

Shri H. N. Meena, while officially communicating with the office of Chief Controller of factories in this matter vide his letter F. No. I(22)I/TA Bill/GM/14-15/(ER)2438, dated 7/10/2015, mis-stated that original TA bill



pertaining to journey during 09-07-2015 to 11-07-2015 and 12-07-2015 to 14-07-2015 has not been received in the office whereas he had already received the payment of Rs.9819/- on 09/09/2015 against the said TA claim. Further, he intentionally entered in communication with the office of Chief Controller of factories without making any entry in the notesheet side of this file in respect of issuance of this letter dated 7/10/2015 in contravention of well laid down official procedure.

The above acts of Shri H. N. Meena revealed that he failed to maintain absolute Integrity; maintain devotion to duty; also failed to maintain high ethical standards and honesty, and have acted in a manner unbecoming of the Government Servant.

By the above acts, Shri H. N. Meena, General Manager has contravened the provisions of Rule 3(1)(i), 3(1)(ii), 3(1)(iii) and 3(1)(vi) of CCS (Conduct) Rules, 1964, rendering himself liable for action under Rule 14 of CCS (CCA) Rules, 1965. ”

6. Suffice to state that the petitioner has challenged the impugned order as well as the issuance of charge sheet *inter alia* on the following grounds:-

- i. The Tribunal has not decided the OA of the petitioner on merits;
- ii. The allegations upon which the petitioner has been chargesheeted cannot be construed as misconduct;
- iii. If entire allegations levelled against the petitioner on the face of it are accepted, it would be nothing, but a mistake on the part of Pay and Account Officer (‘PAO’ for short), in passing the TA, bills twice;
- iv. The petitioner’s error in depositing the alleged excess



payment received on account of TA Bill could be construed as an error /mistake and the same cannot be construed as misconduct;

- v. No ill motive has been attributed to the petitioner as evident from the charge sheet itself. In the absence of any ill motive or mala fide intention on the part of the petitioner, no disciplinary action could be taken and that too on forged documents;
- vi. As per the ratio laid down by the Supreme Court in the case of ***Inspector Prem Chand v. Govt. of NCT of Delhi and Ors., (2007) 4 SCC 566***, the act of the petitioner cannot be construed as misconduct but is only an act of bona fide mistake on his part in believing the PAO and depositing the alleged excess TA claim;
- vii. The petitioner has refunded the alleged amount of TA Bill along with penal interest, way back in 2017, still the respondents have initiated disciplinary proceedings in 2021, just to stall the promotion of the petitioner;
- viii. Initiation of disciplinary proceedings against the petitioner is mala fide and arbitrary, as the authority concerned did not adhere to any timelines or principles. As per CVC instructions, specifically in view of CVC letter No. 3 (v) / 99/ 7 dated September 6, 1999, the disciplinary action should be taken without any delay and the charge sheet should be issued within six months of the alleged incident subject to the condition that the same is based on some



preliminary inquiry. In the present case, this timeline has not been followed inasmuch as the charge sheet has been issued to the petitioner after an unexplained delay;

- ix. The OA was required to be allowed in view of the judgment of the Supreme Court in the case of ***Bharat Singh & Ors. v. State of Haryana and Ors. and connected matters, (1988) 4 SCC 534***. In the said judgment, it has been held that the pleadings raised in a petition are required to be denied with supporting documents and if the same is not done, the same would be admission of contentions;
- x. The Tribunal has ignored its own orders in various ***O.A. Nos. 202/2009, 2166/2008, 2525/2008, 829/2009, 9916/2008, 1570/2009, 1578/2009, 1196/2009, 3069/2009, 2415/2009*** including ***O.A. No. 3737/2010*** titled as ***Shri Kishan Kant v. Council of Industrial Research*** and ***OA No. 2788/2016*** in the case of ***Madan Lal v. Secretary (Revenue), Ministry of Finance***, decided on March 6, 2018, as in the aforesaid cases the Tribunal had quashed the charge sheet on the ground of delay. It is a settled law that action of authorities in issuing charge sheet after inordinate and unexplained delay cannot be allowed to stand being prejudicial to the government employee. [Ref. ***W.P. (C) 8094/2009*** decided on ***April 28, 2009, State of Madhya Pradesh v. Bani Singh & Anr., (1991) 16 ATC 514; Secretary to Government, Prohibition and Excise Department v. L. Srinivasan, (1996) 2 SCC 157, Food***



Corporation of India v. V.P. Bhatia, 1998 (9) SCC 131; State of Andhra Pradesh v. N. Radhakrishnan, (1998) 4 SCC 154; State of Punjab & Ors. v. Chaman Lal Goyal, (1995) 2 SCC 570; and P.V. Mahadevan v. M.D., T.N. Housing Board, (2005) 6 SCC 636];

- xi. The petitioner has been subjected to disciplinary action due to personal bias and in gross violation of established procedure of government functioning and implementation of rules;
- xii. The entire exercise of issuing charge sheet has been done on the basis of forged and fabricated documents;
- xiii. Despite, numerous requests of the petitioner, the respondents have failed to produce the original documents on the basis of which they initiated the action against the petitioner;
- xiv. Entire proceedings suffer from technical fault for the reason that the documents relied upon by the respondents are tampered and forged. The witness indicating the involvement of the petitioner in the alleged double payment of T.A. i.e., Late Shri Bahadur Singh Mandoli (Assistant Account Officer) who had passed the second T.A. Bill has died even before the charge sheet was served upon the petitioner;
- xv. The bill passed by the Accounts Office was in clear violation of Rule 36 of Central Government Account (Receipts and Payments) Rules, 1983 which provides for



- the procedure to be adopted regarding issuance of duplicate and copy of bills etc. for the purpose of payment of money;
- xvi. Charges leveled against the petitioner are based on xerox, non original and forged documents and it is a settled law that disciplinary proceedings should be based only on original or authenticated copies of the relied upon documents;
- xvii. The amount on account of twice payment has already been deposited by the petitioner i.e., the amount of ₹9,819/- along with the interest of ₹1,417/- has been paid by the petitioner;
- xviii. The letter dated October 07, 2015, was in fact, addressed to FA&CAO and not to CCF, New Delhi. As such, none of the allegations as made part of the charge sheet are correct and thus, the same are mala fide;
- xix. The case of the petitioner is a clear case of ulterior motive on the part of the respondent No.3 (Chief Controller of Factories);
- xx. The Tribunal as well as the Disciplinary Authority has not considered the fact that no second claim qua TA has been submitted by the petitioner. The second bill passed by DDO and AO is nothing but part of a conspiracy. It is clear from the charge sheet as well as the documents annexed therewith that the respondents have failed to produce two claims in Form GAR 14 (A) submitted by the petitioner. For claiming TA, signed Form 14 (A) is a condition precedent



as per Rule 90 of the Receipt and Payment Rules, 1983;

xxi. Due to disciplinary action which has been initiated against the petitioner by the respondents, the petitioner has been denied Senior Administrative Grade ('SAG', for short) and he has also been transferred away from his family and as such posted at such a place where the officers with stigma are posted.

7. On the basis of the aforesaid grounds the petitioner has filed the present petition with the following prayers:

“(i) To quash and set aside the impugned order dated 21.12.2022 in OA No. 2493/2022.

(ii) To quash and set aside the charge sheet dated 08.03.2021 and all consequential proceedings and direct the respondents to grant due promotions to the petitioner as withheld on account of impugned chargesheet dated 08.03.2021.

(iii) To allow the Writ Petition with exemplary cost. To pass such other and further order which their Lordships of this Hon'ble High Court deem fit and proper may please be passed.”

8. It is the submission of Mr. Bhardwaj that the petitioner had written the letter dated October 7, 2015 to his controlling officer for getting his pending TA bills cleared and conveying his inability to proceed for further official tours due to financial constraints. Letters written to the controlling officers regarding personal requests are not required to be entered in the notesheet and therefore, the question of contravening the laid down official procedure prescribed by the Government does not arise at all. It was the responsibility of the recipient department to place it on record as per the procedure.



9. It is his submission that during the hearing on May 22, 2023, this Court was informed that the Inquiry Officer submitted his report on February 27, 2023 and accordingly, this court directed the respondents to provide the copy of Inquiry Report to the petitioner to enable him to submit representation. However, the respondents have ignored the aforesaid directions as evident from Letter No. F. No. AC/PCKS/INQ./01/2021/137(c) dated May 29, 2023 vide which the petitioner was directed by the Inquiry Officer to appear for conducting General Examination by ignoring the order of this Court. He submitted that when this Court had already directed to pass the final order on the Inquiry Report as submitted by Inquiry Officer as the petitioner did not want any general examination the respondents could not have insisted for the same.

10. He also submitted that the petitioner was not Head of Office at GOAW, Neemuch. During the relevant period of time, Shri Vijay Singh Meena, Manager, GOAW, Neemuch was the Head of Office in pursuance of CCF Office Order vide F. No. II/Estt/10/1/EC/2003-3464-69 dated July 10, 2015. The Order dated July 10, 2015 was superseded by Order dated October 30, 2018 whereby Shri Anand Kumar, General Manager was declared the Head of office. Therefore, the submission of the respondents that 'it is not suitable/justified for Head of Office himself to receive a payment twice for a single journey by signing the two cash vouchers against the single T.A. bill' is not only erroneous but it proves that the respondents can even take recourse to furnishing the false information on oath before this Court in order to punish the petitioner. The Apex Court in a catena of cases has consistently held



that tendering of affidavits and undertakings containing false statement would amount to criminal contempt. [*Ref. Pushpadevi M. Jatia v. M.L. Wadhawan, Additional Secretary, Government of India and Ors. and connected matter, (1987) 3 SCC 367*].

11. He submitted that CVC has already said that it tenders its advice on the basis of reports and documents made available to it. The respondents have submitted that the representation dated November 23, 2018 sent by the petitioner to DG Vigilance, New Delhi was duly considered by the Competent Authority, however, as to what decision was taken on the representation was never informed to the petitioner. Therefore, the respondents denied the fair opportunity for redressal of the petitioner's grievances. The department has caused serious prejudice to the petitioner. Therefore, the intervention of this Court is warranted under Article 226 of the Constitution. [*Ref. State of Punjab v. V.K. Khanna & Ors. (2001) 2 SCC 330*].

12. It is the submission of Mr. Bhardwaj that the facts of this case are squarely covered as per the ratio laid down in the following judgments:

- a) *V.K. Khanna & Ors. (supra)*;
- b) *Kuldeep Singh v. The Commissioner of Police & Ors., 1999 (2) SCC 10*;
- c) *S.I. Roop Lal & Anr. v. Lt. Governor through Chief Secretary Delhi & Ors., 2000 (1) SCC 644*;
- d) *Chairman-cum-MD, Coal India Ltd. and Ors. v. Ananta Saha & Ors., (2011) 5 SCC 142*;
- e) *Than Singh v. Union of India (UOI) & Ors.*



(MANU/DE/1660/2002);

f) Union of India v. V.K. Sareen, W.P.(C) No.4757 /2007
decided on *July 3, 2009*.

13. It is also the submission of Mr. Bhardwaj that the counter-reply filed by the respondent No.2 cannot be construed as a reply to the present petition as the same has been filed by the respondent No.3 which is evident from perusal of the affidavit itself. As respondent No.3 has been made party by name, the reply could only have been filed by the respondent No.3 and not by any other official on his behalf. In the instant case, the counter-affidavit has been filed by one Nisha Gupta, Additional Commissioner, CCA, CGST & CX, Delhi zone on behalf of the respondent No. 3, the then CCF which is not permissible under law. Therefore the counter-affidavit filed by Ms. Nisha Gupta should be removed from the record of the writ petition. This also shows that the respondent No.3 is very influential person as he has managed to pressurize a senior, IRS Officer of Additional Commissioner rank to file an affidavit in his place.

14. On the other hand, it is the case of Mr. Harpreet Singh, learned Senior Standing Counsel appearing on behalf of the respondents, that the petitioner while working as General Manager, GOAW, Neemuch, intentionally availed TA twice against a single journey performed from Neemuch to Delhi and return thereof during the period from July 09, 2015 to July 14, 2015 and received an amount of Rs. 9,819/- on September 09, 2015 and again on February 19, 2016 vide T.A claims bearing No. TA47/15-16 dated August 26, 2015 and TA-91/15-16 dated



February 11, 2016, respectively.

15. It is his case that while officially communicating with the office of Chief Controller of Factories, in this matter, vide his letter F. No. I(22)1/TA Bill/GM/14-15/(ER)2438, dated October 07, 2015, the petitioner misstated that original TA bill pertaining to journey during July 09, 2015 to July 11, 2015 and July 12, 2015 to July 14, 2015 has not been received in the office whereas he had already received the payment of ₹ 9819/- on September 09, 2015 against the said TA claim.

16. He submitted that PAO, GOAW, Neemuch has confirmed that the payment of both the TA bills pertains to the petitioner and were made through two cheques in favour of DDO. The cheques were encashed by the then DDO and cash payments were made to the petitioner on September 09, 2015 and February 19, 2016, respectively. The receipt of payment by the petitioner is corroborated by the signature of the petitioner on the revenue stamp pasted on the vouchers of the said bills.

17. He further submitted that on perusal of original cash receipt vouchers, it is noted that petitioner has signed both the cash vouchers on revenue stamp in Hindi indicating that he has received the payment at both the times. This rule out the possibility that somebody else has taken the payment second time as the petitioner has expressed the possibility that somebody has done this mischievous act, but on perusal of records, such as original files, as well as several letters written by the petitioner to CCF office and cash receipt vouchers, it appears that there is no such possibility.

18. He further submitted that Ms. Reshma Bundel, the then DDO



and Mr. Bhadur Singh Mandloi, the then AAO acted in a manner prejudicial to the interest of the Government and failed to perform their duties with responsibility on behest of the petitioner.

19. He also submitted that the petitioner has officially entered in communication with the office of Chief Controller of Factories by writing letter dated October 07, 2015, without making any entry in the note sheet side of this file in respect of issuance of this letter, thereby contravening the laid down Official Procedure prescribed by the Government.

20. He submitted that as far as downgrading of the petitioner's APAR by the respondent No.3 is concerned, it is matter of record that APAR gradings were given after careful evaluation of petitioner's work and performance during the reporting period(s). Against, the APARs gradings given to him during 2016-2017 and 2017-2018, the petitioner made representation to the competent authority which has already been disposed of as per due procedure. Further, with regard to the conduct and work performance of the petitioner, it may be mentioned that the respondent No. 3 had conducted several enquiries against the petitioner as per the order issued by CVC on receipt of whistle blower complaints received by CVC against the petitioner alleging large scale irregularities committed by him and the preliminary inquiry reports were submitted to the competent authority in the Dept. of Revenue for further necessary action. The inquiries made against the petitioner, prima facie, reflected adversely on the conduct and integrity of petitioner.

21. He submitted that then CCF vide letter dated February 19,



2018, forwarded the (i) bio data of the petitioner figuring in investigation report in the prescribed format, (ii) objective & precise tabular statement as per CVC's circular dated December 1, 2008 and (iii) draft charge sheet & imputation of charges along with annexure of list of documents and witnesses in support of charges framed against the petitioner, to the Department of Revenue, Ministry of Finance seeking CVC's first stage advise. The CVC vide Office Memorandum dated December 31, 2020/January 01, 2021, advised for initiation of Major Penalty Proceedings, against the petitioner.

22. He further submitted that the disciplinary proceedings which have been initiated against the petitioner are based on evidences available on record and the reply submitted by Smt. Reshma Bundel, ACAO dated August 25, 2017 and Late Shri Bahadur Singh Mandloi (Retired on May 31, 2017) (Expired on July 22, 2019), which prima facie corroborated the charges against the petitioner. The Preliminary Inquiry Report submitted by the respondent No.3 was duly examined by the competent authority and further necessary action to initiate disciplinary proceedings under CCS (CCA) Rules, 1965 was taken in consultation with CVC. After submission of Preliminary Inquiry Report, the respondent No.3 has not dealt with this matter at any stage afterward on account of having been transferred from CCF on September 17, 2018. Therefore, allegation of bias and prejudice made against the respondent No.3 are incorrect and baseless.

23. He submitted that the petitioner was considered by the DPC held on March 30, 2022 for promotion to the grade of Joint Commissioner of Customs & Indirect Taxes on the regular basis against



the vacancy year 2014-15. However, the DPC decided to keep its recommendation regarding his promotion in 'Sealed Cover' as he was not clear from vigilance angle as on the date of DPC in terms of DoPT OM dated September 14, 1992, a Charge Sheet dated March 8, 2021 was pending against him. As the petitioner was not promoted to the grade of Joint Commissioner of Customs & Indirect Taxes on regular basis, his name was not included in the Draft as well as Final Seniority List of Joint Commissioner of Customs and Indirect Taxes.

24. He further submitted that the petitioner vide his earlier representation dated April 15, 2022, represented against the Draft Seniority List of Joint Commissioner of Customs & Indirect Taxes and the same was disposed of vide letter dated May 11, 2022 informing him that the DPC has decided to keep its recommendation regarding his promotion in Sealed Cover due to pending disciplinary proceedings initiated against him vide charge sheet dated March 8, 2021.

25. He also submitted that the petitioner had also applied for the study leave vide letter dated November, 16, 2021 for undertaking LLB course. The said application was rejected by the Competent Authority vide letter dated March 17, 2022 as he was not clear from vigilance angle. The disciplinary action against the petitioner is based on the documentary proof/office records in pursuance to OM dated December 31, 2020 / January 1, 2021, of CVC.

26. He further submitted that there has been no delay whatsoever in the conduct of disciplinary proceedings. The delay in the completion of disciplinary proceedings is for reasons beyond the control of the department. It has only occurred since the department wanted to ensure



that the disciplinary proceedings are carried out in accordance with the provisions of law.

27. It is his case that it is the settled position of law that charge sheet cannot be a subject matter of challenge as it does not adversely affect the rights of a delinquent unless it is established that the same has been issued by an authority not competent to initiate the disciplinary proceedings. Neither the disciplinary proceedings nor the charge sheet can be quashed at an initial stage as it would be a premature stage to deal with such issues. [*Ref. Secretary, Min. of Defence v. Prabhash Chandra Mirdha, reported in (2012) 11 SCC 565 and Govt. of AP v. Appala Swamy, MANU/SC/7090/2007*].

28. He finally submitted that it is a matter of fact that the petitioner has availed TA twice against the same journey. The proof of petitioner receiving the TA twice has also been produced before this Court on May 22, 2023. Moreover, this Court had also directed the respondents to show the aforesaid proof (cash vouchers) which is to be exhibited before this Court.

29. On the basis of all the aforesaid submissions, the respondents have prayed that this petition should be dismissed with cost.

ANALYSIS

30. Having heard the learned counsel for the parties and perused the record, at the outset, it may be stated here that this petition has been filed by the petitioner challenging the order of the Tribunal whereby the Tribunal has dismissed the OA on the ground that the scope of judicial intervention at the stage of issuance of charge sheet dated March 8, 2021 is very limited. In other words, a charge sheet cannot be



interfered at the initial stage and the disciplinary proceedings are required to be carried out as per the procedures prescribed within the timelines attached to it. In fact, we find that the Tribunal while disposing of the OA has directed the respondents to conclude the inquiry and take further action as per the rules and law, preferably within a period of three months from the date of the receipt of the impugned order.

31. During the pendency of the writ petition, it is transpired that the Inquiry Officer has given his report dated July 10, 2023, wherein he has concluded as under:-

ARTICLE I

“65. In view of the above facts, I agree with the contentions of the Charge Officer that he had absolutely no role to play in the entire process of sanction of the amount of Rs.9,819/- for the second time. The only lapse which can be attributed to the Charged Officer is that he did not exercise due diligence when he received EXACTLY the same amount of Rs.9,819/- for the second time on 19.02.2016, which he had received earlier on 09.09.2015. This was not a case of excess payment in respect of a claim, which could be a relatively common occurrence, but a case of double payment of exactly the same amount, which has to be termed as exceptional. At the same time, it is reiterated that no mala fide can be attributed to the Charged Officer in the entire process of the sanction of this claim amount for the second time, for the reasons mentioned above.

*“66. In view of the above discussion, I hold that **Article I** of the Articles of Charge of the said Memorandum is **partially proved** only to the extent indicated above viz., to the extent that the Charged Officer did not exercise due diligence while receiving exactly the same amount for the second time.*



ARTICLE II

“75. In view of these facts, the allegation that the Charged Officer entered in communication with CCF, New Delhi without making any entry in the notesheet is factually established. However, as discussed earlier, it has also been fully established that the Charged Officer had absolutely no role to play in the process of sanction of the TA amount for the second time. Therefore, the letter F. No. I(22)1/TA Bill/GM/14-15/(ER) 2438 dated 07.10.2015 completely loses its relevance as a factor in the sanction of the TA amount for the second time. Accordingly it is held that even though the Charged Officer entered in communication with CCF, New Delhi without making any entry in the notesheet, the ‘intention’ of the Charged Officer in issuing this letter was definitely not for the purpose of getting the amount sanctioned to himself for a second time.

*76. In view of the above discussion, I hold that the Article II of the Articles of Charge of the said Memorandum is **not proved.**”*

32. We have also been informed by Mr. Bhardwaj that the petitioner has submitted his representation dated September 28, 2023, against the aforesaid Inquiry Report.

33. Suffice to state that the challenge to the impugned order passed by the Tribunal in this petition is primarily to the effect that there is no misdemeanor on the part of the petitioner which warranted the issuance of charge sheet. It is the submission of Mr. Bhardwaj that the allegations levelled against the petitioner reveal that the mistake was on the part of the PAO in passing the TA Bills twice. In other words, no ill motive could be attributed to the petitioner in view of the fact that it



was the PAO who had passed the TA Bills twice. As such, it has been strenuously argued by Mr. Bhardwaj that in the absence of ill motive or mala fide on the part of the petitioner, no disciplinary action can be taken and that too on forged documents. He has also highlighted the facts that the action against the petitioner has been taken with the ulterior motive on the part of the respondent No.3. In fact, because of the disciplinary action initiated against the petitioner, he has been denied SAG and moreover, he has also been transferred away from his family and posted at such a place where the officers with stigma are posted.

34. Mr. Bhardwaj has also relied upon the following judgments to *inter alia* contend that the charge sheet in question, in the facts of the present case, needs to be quashed:-

- a) ***V.K. Khanna & Ors. (supra);***
- b) ***Ananta Saha & Ors. (supra);***
- c) ***Than Singh (supra);***

35. As noted above, during the pendency of this writ petition, a development has also taken place i.e., the Inquiry Officer has submitted his report, which has also been forwarded to the petitioner, who has submitted his detailed representation controverting the limited conclusion drawn by the Inquiry Officer in his report, i.e., *Article-I*, though not completely proved, the same has been partially proved only to the extent as indicated in paragraph 31 above, i.e., the charged officer (petitioner herein) did not exercise due diligence while receiving exactly the same amount for the second time. Insofar as, *Article-II* is concerned, the same has not been proved. According to Mr. Bhardwaj,



Article-I, which states that the petitioner has ‘*intentionally*’ availed travelling allowance twice against a single journey performed from Neemuch to Delhi and return thereof, has not been proved. In other words, no mala fide has been imputed against the petitioner by the Inquiry Officer while concluding that the petitioner did not exercise due diligence while receiving exactly the same amount for the second time and as such, the finding of the Inquiry Officer is perverse and thus, cannot be taken against the petitioner. He also stated that *Article-II*, which also alleges that while claiming TA of ₹9,819/- twice for a single journey, the petitioner intentionally entered in a communication with the Office of Chief Controller of Factories without making any entry in the note sheet side of this file in respect of issuance of the letter dated October 7, 2015 in contravention of well laid down procedure. According to Mr. Bhardwaj, even the aforesaid allegation, as finds mentioned in *Article-II*, having not been proved, no mala fide can be imputed on the petitioner and as such, it is as good as, both the Articles of Charge have not been proved and thus, the charge sheet itself needs to be dropped.

36. It is clear that amongst the two Articles of Charge framed against the petitioner, *Article-I*, as per the Inquiry Officer has been proved partially in the following manner, whereas, *Article-II* stands not proved at all:-

*“In view of the above discussion, I hold that **Article I** of the Articles of Charge of the said Memorandum is **partially proved** only to the extent indiated above viz., to the extent that the Charged Officer did not exercise due diligence while receiving exactly the same amount for the*



second time.

37. It is a fact that the petitioner has submitted his representation even on the conclusion drawn by the Inquiry Officer to the effect that *Article-I* has been partially proved against the petitioner. Though, the petitioner contests such a conclusion arrived at by the Inquiry Officer in his representation, we are of the view, that appropriate shall be that the said representation be considered by the competent authority and pass a final order on the charge sheet. This we say so, because the competent authority is rightly placed to take a view as to whether the conclusion drawn by the Inquiry Officer is correct or not. Surely, before taking any view, the competent authority shall also consider the representation of the petitioner dated September 28, 2023.

38. Though Mr. Bhardwaj has relied upon various judgments, as noted in paragraphs 12 and 34 above, in support of his submission that in the peculiar facts and circumstances the charge sheet needs to be quashed, we are of the view that as much water has flown after the Tribunal has rendered its judgment inasmuch as the Inquiry Officer has submitted his report and as such, it shall not be appropriate for this Court to decide as to whether in the facts of this case, the charge sheet needs to be set aside by placing reliance on the judgments referred to by Mr. Bhardwaj. There is no reason for us to think that the competent authority while passing the final order shall not consider in proper perspective the stand taken by the petitioner in his representation qua the conclusion drawn by the Inquiry Officer.

39. In view of our above discussion, we deem it appropriate to



dispose of the petition with a direction that the competent authority shall pass a final and speaking order within a period of eight weeks from the date of receipt of the copy of this order.

40. If the petitioner is aggrieved by any order to be passed, he shall be at liberty to seek such remedy as available in law.

41. The present petition is disposed of in the above terms. No costs.

CM APPL. 34229/2023

Dismissed as infructuous.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

MARCH 13, 2024/aky/jg