



2024:DHC:8582-DB



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

+ **W.P.(C) 6000/2018**

UNION OF INDIA & ANR

.....Petitioners

Through: Mr. Kirtiman Singh, CGSC
with Mr. Waize, Mr. Manik Khurana, Mr.
Ranjeev and Mr. Varun, Advocates

versus

SHRI R K NIM

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

JUDGMENT (ORAL)

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06.11.2024

C. HARI SHANKAR, J.

1. The respondent was working in the post of Director in the Survey of India, which is admittedly a Group A post. His Disciplinary Authority, again admittedly, was the Minister of Science and Technology.

2. The respondent was subjected to disciplinary proceedings by issuance of chargesheet on 5 March 2012. Inquiry proceedings took off. An Inquiry Officer¹ was appointed. Inquiry report dated 1 February 2013 was submitted by the IO. On the basis of the said Inquiry Report, the respondent was penalized by order dated 15 June 2016 passed by the Disciplinary Authority.

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3. Assailing the aforesaid proceedings from the stage of chargesheet till the stage of final punishment order dated 15 June 2016, the respondent instituted OA 498/2017 before the Central Administrative Tribunal, Principal Bench².

4. The respondent relied on the judgment of the Supreme Court in ***Union of India v B.V. Gopinath***³ to contend that as neither the chargesheet nor the draft chargesheet, which was supposed to be issued to him had been up for approval before the Hon'ble Minister, the proceedings *ab initio* stood vitiated. The learned Tribunal has accepted this contention and has allowed the respondent's OA, resulting in quashing of the entire proceedings from the stage of chargesheet to the stage of punishment order. The reasons for the decision are contained in paras 2 to 5 of the impugned order, which read as under:

“2. The respondents were accordingly directed to file the reply as also to produce the records. Reply has not been filed. However, the original records of disciplinary authority have been produced, which we have carefully perused. The Note for initiating disciplinary proceedings after obtaining the first stage advice of Central Vigilance Commission (CVC) was initiated by the Section Officer (Vig.) on 02.01.2012. It is this Note, which has been examined by the Under Secretary (Vig.) and later by the Secretary, Department of Science & Technology (DST) and finally approved by the disciplinary authority (Hon'ble Minister) on 15.02.2012. The said Note is reproduced hereinbelow:

“5. To initiate any disciplinary proceedings against Shri R.K. Nim, Director, a Senior Group “A” Officer, approval of the President is required to be obtained. Accordingly, the case may kindly be submitted to the Hon'ble Minister (S&T

¹ “IO” hereinafter

² “the Tribunal” hereinafter

(2014) 1 SCC 351



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and ES), for his approval on behalf of the President on the following:

(i) acceptance of the first stage advice of CVC dated 23.11.2011 for initiation of major penalty proceedings against Shri R.K. Nim, Director, Western Printing Group, Survey of India, New Delhi.

(ii) initiation of disciplinary proceedings by issuing charge-sheet for major penalty proceedings against Shri R.K. Nim, Western Printing Group, Survey of India, New Delhi under Rule 14 of CCS (CCA) Rules, 1965;

and

(iii) for taking action ancillary to issue of charge-sheets, viz. appointment/change of IO/PO, minor corrections in the charge-sheets, if any, before starting of the enquiry, etc.”

3. From the above, we find that the Note was initiated for acceptance of the first stage advice of CVC, initiation of disciplinary proceedings by issuing charge-sheet for major penalty proceedings in terms of Rule 14 of CCS (CCA) Rules, 1965 and for taking action ancillary to issue of chargesheet. There was no initiation so far as the approval of the draft chargesheet is concerned. The reading of the Note would only reveal that the process for initiation of the disciplinary proceedings was placed before the Hon’ble Minister. Even the draft charge-sheet does not seem to have been produced. Therefore, the question of approval of the charge-sheet does not arise.

4. It is also pertinent to note that the Hon’ble Minister has been asked to even approve the appointment of inquiry officer / presenting officer and corrections in the charge-sheet, if any. This Note depicts total lack of knowledge on the part of the concerned officers. Such a procedure is in gross contravention of Rule 14 of CCS (CCA) Rules, 1965. The charge-sheet having not been approved by the disciplinary authority as required under sub rule (3) of Rule 14, not only the charge-sheet is liable to be quashed, but all subsequent proceedings, as a consequence of the aforesaid charge-sheet, are liable to be set aside.

5. The controversy is no more res integra and squarely covered by the decision of the Hon’ble Supreme Court in ***Union of India v. B.V. Gopinath & others.***”



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5. Aggrieved thereby, the Union of India has filed the present petition under Article 226 of the Constitution of India.

6. We have heard Mr. Kirtiman Singh, learned Senior Standing Counsel for the petitioner, at length.

7. In the light of the law laid down in ***B.V. Gopinath***, there can be no dispute about the fact that the chargesheet or the draft chargesheet which was proposed to be issued to the respondent has necessarily to be put up to the Hon'ble Minister for approval in order for the disciplinary proceedings to sustain. The issue in controversy in ***Gopinath*** stands thus crystallized in the opening paragraph of the decision:

“The central issue that arises for consideration in these appeals is: whether the charge-sheet issued against the respondents is without jurisdiction, in view of the fact that the disciplinary authority i.e. the Finance Minister, *had not given approval for issuing the charge memo*, even though he had given approval for initiation of major penalty proceedings against the respondents.”

(Emphasis supplied)

The Disciplinary Authority of Gopinath was the Hon'ble Finance Minister. Gopinath contended that, as the charge-sheet issued to him had not been approved by the Hon'ble Finance Minister, the disciplinary proceedings stood vitiated *ab initio*.

8. The Union of India, defending the disciplinary proceedings, contended thus:

“8. Ms Jaising has elaborately explained the entire procedure that is followed in each and every case before the matter is put up before the Finance Minister for seeking approval for initiation of



the disciplinary proceedings. *According to the learned Additional Solicitor General, the procedure followed ensures that entire material is placed before the Finance Minister before a decision is taken to initiate the departmental proceedings. She submits that approval for initiation of the departmental proceedings would also amount to approval of the charge memo.* According to the learned Additional Solicitor General, CAT as well as the High Court had committed a grave error in quashing the departmental proceedings against the respondents, as the procedure for taking approval of the disciplinary authority to initiate penalty proceeding is comprehensive and involved decision making at every level of the hierarchy.

9. Ms Jaising pointed out that upon receipt of a complaint the same is examined by the Chief Vigilance Officer in the Office of the Director General, Income Tax (Vigilance). A decision is taken upon examination of the complaint as to whether there is a vigilance angle involved. In case, it is found that a complaint involves a vigilance angle, a preliminary investigation is conducted. During the preliminary investigation, the version of the officer concerned is also taken. Thereafter, the decision is taken by the Chief Vigilance Officer (hereinafter referred to as “CVO”) with the approval of the Central Board of Direct Taxes as to whether disciplinary proceedings are to be initiated. In case, CVO decides to initiate disciplinary proceedings, the matter is then referred to the Chief Vigilance Commission for first stage advice. The Chief Vigilance Commission examines the first stage advice. In case the Chief Vigilance Commission concurs with the decision taken by the Chief Vigilance Officer, a detailed note is prepared for initiation of disciplinary proceedings which is put up to the Finance Minister. *She emphasised that along with note for initiation of disciplinary proceedings, all relevant supporting material is also placed before the Finance Minister. It is upon consideration of the entire material along with the explanatory note that the Finance Minister takes a decision to initiate departmental proceedings. In view of the aforesaid elaborate procedure, CAT as well as the High Court had erroneously concluded that such procedure would not amount to approval of the charge memo.*

14. The learned Additional Solicitor General further submitted that the High Court has wrongly drawn a distinction between approval for initiation of the disciplinary proceedings and approval for issuance of charge memo by treating them as two distinct steps. She reiterated that approval for initiation of departmental proceeding would include approval of the charge memo by the disciplinary authority.



15. The next submission of the learned Additional Solicitor General is that the charge-sheet is normally not to be quashed unless prejudice is shown to be caused to the delinquent officer. And since the respondent has not alleged any prejudice caused to him by virtue of the charge-sheet not having been approved by the disciplinary authority, the charge-sheet ought not to have been interfered with. ...

16. In support of her submission that it is not necessary that charge-sheet should be framed by the authority competent to impose penalty or that enquiry should be conducted by such authority alone, reliance was placed on *Inspector General of Police v Thavasiappan*⁴.

9. The Supreme Court addressed the submissions of the Union of India thus:

41. Disciplinary proceedings against the respondent herein were initiated in terms of Rule 14 of the aforesaid Rules. Rule 14(3) clearly lays down that where it is proposed to hold an inquiry against a government servant under Rule 14 or Rule 15, the disciplinary authority *shall draw up or cause to be drawn up* the charge-sheet. Rule 14(4) again mandates that the disciplinary authority *shall deliver or cause to be delivered* to the government servant, a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and the supporting documents including a list of witnesses by which each article of charge is proposed to be proved. We are unable to interpret this provision as suggested by the Additional Solicitor General, that once the disciplinary authority approves the initiation of the disciplinary proceedings, the charge-sheet can be drawn up by an authority other than the disciplinary authority. This would destroy the underlying protection guaranteed under Article 311(1) of the Constitution of India. Such procedure would also do violence to the protective provisions contained under Article 311(2) which ensures that no public servant is dismissed, removed or suspended without following a fair procedure in which he/she has been given a reasonable opportunity to meet the allegations contained in the charge-sheet. Such a charge-sheet can only be issued upon approval by the appointing authority i.e. Finance Minister.

42. In fact, issuance of Office Order No. 205 dated 19-7-2005 makes it evident that the respondents were aware of the legal



position. The office order clearly sets out the levels of the decision-making authorities depending on the gravity of the consequences that would have to be faced by a delinquent public servant in case the decision is taken to proceed against the public servant. Clause (1) deals with closure of complaints which are anonymous/pseudonymous; if the decision is taken to close the complaint it can be taken by the CVO. But in case of verifiable facts, the complaints have to be referred to the next level of hierarchy CVB (Central Vigilance Bureau). For placing an officer under suspension, the decision has to be taken by the Finance Minister himself. Even review of suspension at quarterly/half-yearly interval rests with the Finance Minister. This is so, as suspension during contemplation/pendency of enquiry, though may not be penal in nature per se, still has very serious adverse consequences on the professional as well as the personal life of the officer suspended. The office order recognising the gravity of the consequences ensures that the decision in relation to suspension/review of suspension shall be taken by the highest authority in the department i.e. the Finance Minister. In matters related to reference to CVC for first stage advice, the competent authority is the Secretary (Revenue). Similarly, for reconsideration of CVC's first stage advice, again the competent authority is the Secretary (Revenue), but in case of disagreement with CVC's first stage advice on approval for referring the case to Department of Personnel and Training, the competent authority is the Finance Minister.

45. Rule 14 of the CCS (CCA) Rules provides for holding a departmental enquiry in accordance with the provisions contained in Article 311(2) of the Constitution of India. Clause (8) also makes it clear that when the Finance Minister is approached for approval of charge memo, approval for taking ancillary action such as appointing an inquiry officer/presiding officer should also be taken. Clause (9) in fact reinforces the provisions in Clause (8) to the effect that it is the Finance Minister, who is required to approve the charge memo. Clause (9) relates to a stage after the issuance of charge-sheet and when the charge-sheeted officer has submitted the statement of defence. It provides that in case the charge-sheeted officer simply denies the charges, CVO will appoint an inquiry officer/presiding officer. In case of denial accompanied by representation, the Chairman is to consider the written statement of defence. In case the Chairman comes to a tentative conclusion that written statement of defence has pointed out certain issues which may require modification/amendment of charges then the file has to be put up to the Finance Minister. So the intention is clearly manifest that all decisions with regard to the approval of charge memo, dropping of the charge memo, modification/amendment of charges have to be taken by the Finance Minister.



48. Much was sought to be made by Ms Indira Jaising on Clause (10) of the order which provides that once the Finance Minister has approved the initiation of departmental proceedings, the ancillary action can be initiated by CVO. According to the learned Additional Solicitor General, the decision taken by the Finance Minister would also include the decision for approval of charge memo. She pointed out the procedure followed for initiation of penalty proceedings/disciplinary proceedings. She submitted that the decision to initiate disciplinary proceedings is based on a satisfaction memo prepared by CVO. This satisfaction memo is submitted to the Member (P&V), Central Board of Direct Taxes, New Delhi who after being satisfied that the memo is in order, forwards it to the Chairman, CBDT who in turn, upon his own satisfaction forwards it to Secretary (Revenue) and finally to the Finance Minister. Based on the satisfaction memo, the Finance Minister, who is the disciplinary authority in this case, takes the decision to initiate disciplinary proceedings. While taking the said decision, the Finance Minister has before him, the details of the alleged misconduct with the relevant materials regarding the imputation of allegations based on which the charge memo was issued. Therefore, approval by the Finance Minister for initiation of the departmental proceedings would also cover the approval of the charge memo.

49. We are unable to accept the submission of the learned Additional Solicitor General. Initially, when the file comes to the Finance Minister, it is only to take a decision in principle as to whether departmental proceedings ought to be initiated against the officer. Clause (11) deals with reference to CVC for second stage advice. In case of proposal for major penalties, the decision is to be taken by the Finance Minister. Similarly, under Clause (12) reconsideration of CVC's second stage advice is to be taken by the Finance Minister. All further proceedings including approval for referring the case to DoP&T, issuance of show-cause notice in case of disagreement with the enquiry officer's report; tentative decision after CVC's second stage advice on imposition of penalty; final decision of penalty and revision/review/memorial have to be taken by the Finance Minister.

50. In our opinion, the Central Administrative Tribunal as well as the High Court has correctly interpreted the provisions of Office Order No. 205 of 2005. Factually also, a perusal of the record would show that the file was put up to the Finance Minister by the Director General of Income Tax (Vigilance) seeking the approval of the Finance Minister for sanctioning prosecution against one officer and *for initiation* of major penalty proceeding under Rules 3(1)(a) and 3(1)(c) of the Central Civil Services (Conduct) Rules



against the officers mentioned in the note which included the respondent herein. Ultimately, it appears that the charge memo was not put up for approval by the Finance Minister. Therefore, it would not be possible to accept the submission of Ms Indira Jaising that the approval granted by the Finance Minister for initiation of departmental proceedings would also amount to approval of the charge memo.

52. In our opinion, the submission of the learned Additional Solicitor General is not factually correct. The primary submission of the respondent was that the charge-sheet not having been issued by the disciplinary authority is without authority of law and, therefore, *non est* in the eye of the law. This plea of the respondent has been accepted by CAT as also by the High Court. The action has been taken against the respondent in Rule 14(3) of the CCS (CCA) Rules which enjoins the disciplinary authority to *draw up* or *cause to be drawn up* the substance of imputation of misconduct or misbehaviour into definite and distinct articles of charges. The term “cause to be drawn up” does not mean that the definite and distinct articles of charges once drawn up do not have to be approved by the disciplinary authority. The term “cause to be drawn up” merely refers to a delegation by the disciplinary authority to a subordinate authority to perform the task of drawing up substance of proposed “definite and distinct articles of charge-sheet”. These proposed articles of charge would only be finalised upon approval by the disciplinary authority. Undoubtedly, this Court in *P.V. Srinivasa Sastry v. CAG*⁵ has held that Article 311(1) does not say that even the departmental proceeding must be initiated only by the appointing authority. However, at the same time it is pointed out that: (SCC p. 422, para 4)

“4. ... However, it is open to the Union of India or a State Government to make any rule prescribing that even the proceeding against any delinquent officer shall be initiated by an officer not subordinate to the appointing authority.”

It is further held that: (SCC p. 422, para 4)

“4. ... Any such rule shall not be inconsistent with Article 311 of the Constitution because it will amount to providing an additional safeguard or protection to the holders of a civil post.”

10. Though Mr. Kirtiman Singh sought to distinguish *Gopinath* as having been rendered in the context of Office Order No 205 dated 19



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July 2005 which does not apply here, it is obvious that the *ratio decidendi* of **Gopinath** travels far beyond the confines of the said Office Order. The Supreme Court has relied on Article 311 and Rule 14 of the CCS (CCA) Rules, both of which apply to the present case and to the respondent, to hold that the *charge sheet* is required to be presented before, and approved by, the Disciplinary Authority. The Supreme Court has also distinguished between approval *for initiating disciplinary proceedings* and approval *of the charge sheet whereby the proceedings are initiated*. The grant of the former does not imply the grant of the latter. Shortly put, if the charge sheet is not put before, and approved by, the disciplinary authority, the disciplinary proceedings stand vitiated *ab initio*.

11. Mr. Kirtiman Singh submits that the requirement of obtaining approval of the Hon'ble Minister for the charge-sheet issued to the respondent was satisfied in the present case. He has taken us through the file noting and has also produced before us the original file, which we have perused.

12. The file was initially put up before the Central Vigilance Commission (CVC) for first stage advice on 5 September 2011. With the said file, a draft chargesheet was also enclosed. Thereafter, *by a separate note dated 2 January 2012, the file was put up to the Hon'ble Minister.*

13. One of the submissions of Mr. Kirtiman Singh is that, with this note, the file which had originally been put up to the CVC, was also enclosed and that therefore amounts to putting up of the draft



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chargesheet before the Hon'ble Minister.

14. An identical submission had been advanced before the Supreme Court by the Union of India in *Gopinath*, and rejected.

15. On facts, too, we are not inclined to accept this submission. We have seen the original file as well as the note which has been filed by the petitioner as Annexure P3 with the writ petition. We deem it appropriate to extract paras 1, 4 and 5 of the note as under :

“A complaint, dated 03.05.2011, against Shri R.K.Nim, Director, Western Printing Group [WPG], Survey of India, New Delhi was received by SOI, which was lodged by Shri S. Punia, and one more anonymous complaint dated 02.05.2011 was also received, alleging following irregularities committed by Shri R.K.Nim, Director, WPG, New Delhi:

Shri R.K.Nim, Director, WPG, New Delhi submitted a false claim towards transportation of household goods on his transfer from Delhi Survey(Air) and Delhi GDC, New Delhi to Western Printing Group, Delhi Cantt., New Delhi;

He compelled the DDO and ministerial staff to ignore Rs.64,071/- arrear received by him, while computing the income tax for the year 2007-08;

He overruled the punishment order issued by the previous Director and issued a fresh order in respect of Shri Sita Ram Jatav, Technical Labourer;

He overruled the punishment order issued by the previous Director and issued a fresh order in respect of Shri Satish John, Electrician Grade II;

He unauthorizedly engaged a lady private secretary without obtaining prior administrative and financial sanction from the competent authority. Further, pay drawn for 10 guards whereas only 7-8 guards were actually employed;

He misused the government vehicle;

To cover up his own irregularities he obliged association leader Shri Rakesh Gupta, Machine Operator by providing facilities for

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which he is not entitled;

The money received from the visitors towards the official guesthouse was being kept in hand instead of depositing the same in proper govt. account.

4. From the report of the Preliminary Enquiry, it has been established that Shri R.K. Nim, Director, WPG, New Delhi has committed gross irregularities leading to violation of various administrative and financial rules thereby failed to maintain absolute integrity, devotion to duty and acted in such a manner which are unbecoming of a Government servant, and have violated the provisions of Rules 3(i), 3(ii) & 3(iii) of CCS (Conduct) Rules, 1964.

5. The case was forwarded to CVC for their advice in the matter. CVC, vide their O.M. dated 23.11.2021, have tendered their first stage advice for initiation of major penalty proceedings against Shri R.K. Nim, Director, WPG, SOI, New Delhi. It may be mentioned here that Shri Nim is superannuating on 30.06.2012.

5. To initiate any disciplinary proceedings against Shri R.K. Nim, Director, a Senior Group 'A' Officer, approval of the President is required to be obtained. Accordingly, the case may kindly be submitted to the Hon'ble Minister (S&T and ES), for his approval on behalf of the President on the following:

(i) acceptance of the first stage advice of CVC dated 23.11.2011 for initiation of major penalty proceedings against Shri R.K. Nim, Director, Western Printing Group, Survey of India, New Delhi;

(ii) initiation of disciplinary proceedings by issuing charge-sheet for major penalty proceedings against Shri R.K. Nim, Western Printing Group, Survey of India, New Delhi under Rule 14 of CCS(CCA) Rules, 1965;

and

(iii) for taking action ancillary to issue of charge-sheets, viz. appointment/change of IO/PO, minor corrections in the charge-sheets, if any, before starting of the enquiry, etc.”

16. We see from the official file that the file commences with the aforesaid note and there are no earlier pages in the file. There is a dim

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handwritten noting on the left margin of the first page of the file, which reads thus:

“✓pp 3-4/c
L/F C-13011/5/08-vig.
✓✓pp 10-11/c ibid”

17. Mr. Kirtiman Singh’s submission is that this handwritten noting should be treated as evocative of the fact that with this file, the original file which had been put up to the CVC, including the draft chargesheet, had also been placed before the Hon’ble Minister.

18. We are not inclined to accept the submission. A dim handwritten noting which itself is difficult to decipher can hardly be ground for us to reverse the decision of the learned Tribunal, especially as the learned Tribunal had also seen the original file.

19. Mr. Kirtiman Singh thereafter draws our attention to the second para 5⁶ in the aforesaid noting of 2 January 2012. He submits that S. Nos (ii) and (iii) of para 5 would indicate that the draft chargesheet was in fact put up before the Hon’ble Minister.

20. We are unable to accept this submission as well.

21. Para 5(ii) only requires *the proposal for initiation of disciplinary proceedings by issuance of a chargesheet* to be put up before the Hon’ble Minister. There is clear difference between putting up a proposal for instituting disciplinary proceedings and putting up the draft chargesheet itself before the Hon’ble Minister. This



distinction has been underscored by the Supreme Court in **Gopinath**, and specifically stands noted in para 33 of the judgment of the Division Bench of this Court in **Suresh Sharma v NTRO**⁷ :

“33. In the facts of **B.V. Gopinath (supra)**, it appears that there was a general and initial approval taken from the Disciplinary Authority to "initiate" an inquiry against the government servant. On that basis, without approval of the Disciplinary Authority, the charge memo/ charge sheet was issued containing the substance of the imputations of misconduct and misbehaviour formulated into definite and distinct articles of charge along with the documents referred to in sub rule (3) (ii) of the Rules. It is this procedure adopted by the government in **B.V. Gopinath (supra)**, which was disapproved of by the Supreme Court. *The initial and general approval granted for "initiation" of disciplinary proceedings, even if obtained in a given case - which is not a statutory requirement, cannot be construed as an approval to the issuance of charge memo/ charge sheet under Rule 14(3).*”

(Emphasis supplied)

22. This Court, has, therefore, clearly held, echoing **Gopinath**, that grant of approval for initiation of disciplinary proceedings is one thing and grant of approval for issuance of a chargesheet or grant of approval to the chargesheet itself is entirely another. Para 5(ii) of the note dated 2 January 2012 cannot therefore in our opinion constitute grant of approval for the chargesheet which ultimately came to be issued to the respondent. At the highest, it is only approval for the initiation of disciplinary proceedings against the respondent which has been sought; nothing more.

23. Mr. Kirtiman Singh has also placed reliance on para 5(iii) of the note dated 2 January 2012 which seeks approval of the Hon’ble Minister “for taking action ancillary to issue of chargesheet viz. appointment/change of IO/PO, minor corrections in the chargesheet, if



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any, before starting inquiry. Clearly, the approval of the Hon'ble Minister was sought, by this entry, only *for taking of ancillary action for issuance of chargesheet*. It cannot be treated as indicating that the draft chargesheet had itself been forwarded to the Hon'ble Minister.

24. In fact, **Suresh Sharma**, which is one of the judgments on which Mr. Kirtiman Singh places reliance, involved an exactly converse situation. In that case, the chargesheet had actually been approved by the Hon'ble Prime Minister. The contention by the petitioner Suresh Sharma before the Division Bench was that, though the chargesheet had been approved, the proposal to initiate disciplinary proceedings had not been *independently* approved by the Hon'ble Prime Minister. This Court held, quite unexceptionably, that once the chargesheets themselves had been approved, the fact that there may not have been, on the file, any independent approval for the proposal to initiate disciplinary proceedings, could not make any difference in law.

25. In view thereof, the decision in **Suresh Sharma**, if anything, would militate against the contention which Mr. Kirtiman Singh seeks to advance, as it again underscores the importance of the requirement of obtaining the approval of the disciplinary authority *for the specific charge sheet which is proposed to be issued to the officer. The charge sheet must be put up to the disciplinary authority and she, or he, must approve it.*

26. The learned Tribunal has held that this has not happened in the present case. We, having seen the file, do not see any reason to hold



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otherwise.

27. Having seen the file and in the light of the law laid down by the Supreme Court in ***B V Gopinath*** and by this Court in ***Suresh Sharma***, we do not find a case for interference with the judgment of the learned Tribunal within the limited parameters of Article 226 of the Constitution of India is made out.

28. The petition is, accordingly, dismissed.

C. HARI SHANKAR, J.

DR. SUDHIR KUMAR JAIN, J

NOVEMBER 6, 2024/yg

[Click here to check corrigendum, if any](#)