

Form No. J.(2)
Item No. 62
Court No. 1
PG

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

HEARD ON: 26.11.2025
DELIVERED ON: 26.11.2025

**CORAM:
THE HON'BLE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HON'BLE JUSTICE PARTHA SARATHI SEN**

W.P. CT. 74 of 2024

**Union of India & ors.
Vs.
Shri Sujan Kumar Shit**

Appearance:-

**Mr. Rabindra Nath Bag
Ms. Indrani Chakraborty
Ms. Sarda Sha
Mr. Sk. Md. Wasim Akram
Mr. Piyas Choudhury
Mr. Md. Abdul Gani**

.....For the Petitioners

**Mr. Ujjal Ray
Mr. Arpa Chakraborty
Mr. Binit Kumar**

.....For the respondent

JUDGEMENT (ORAL):

Sujoy Paul, ACJ.:-

1. With the consent of the learned counsel for the parties, the matter is finally heard. We have heard Mr. Rabindra Nath Bag, learned counsel for the petitioners and Mr. Ujjal Ray, learned counsel for respondent.
2. The department has filed this petition feeling aggrieved by common order passed by tribunal in three matters including OA 350/00213/2015, which

was filed by respondent herein, Shri Sujan Kumar Shit (applicant herein). The said OA was clubbed together with two more OAs filed by fellow employees. The matters were analogously heard and decided by common order dated 28.6.2022. The tribunal found that a minor penalty charge sheet under Rule 16 of CCS (CCA) Rules, 1965 was issued against the respondent. The respondent denied the charges *in toto*. Thereafter, without conducting a full-fledged inquiry, as envisaged in Rule 14 of the said Rules, punishment order dated 29.05.2014 was passed, whereby a recovery of Rs. 1,45,000/- (Rupees One lakh forty five thousand) was imposed on the delinquent employee with the direction to recover Rs. 5,000/- per month from July 14, 2014 in 29 equal instalments.

3. The delinquent employee, after exhausting the departmental remedies, filed the said OA before the tribunal. The bone of contention of the applicant therein was that although charge sheet was issued for imposition of minor penalty, fact remains that charges were founded upon facts and delinquent employee denied the same *in toto*. In this view of the matter, the only course open to the department was to conduct a regular inquiry envisaged under Rule 14 of the said Rules.
4. The tribunal heard the matter and after taking into account the fact that a similar issue travelled to this Court in the case of **Uday Chand Majumdar** and **Prasenjit Mukherjee** and the tribunal's order was upheld, wherein penalty order was interfered with liberty was reserved to the department to proceed against the employee in accordance with law.

CONTENTION OF THE DEPARTMENT:

5. Learned counsel for the department submits that no doubt, in view of the judgment of Supreme Court in the case of ***O.K. Bhardwaj vs. Union of India & Ors. (2001) 9 SCC 180***, the course available with the department was to conduct a full-fledged inquiry in a case of this nature, where the delinquent employee denied the charges *in toto*. However, the tribunal, while giving such liberty to the employer has not considered the executive instructions mentioned in the Postal Manuals. Thus, the tribunal was not justified in setting aside the punishment order and reserving liberty to the department to proceed against the delinquent employee.

CONTENTION OF THE RESPONDENT:

6. Learned counsel for respondent urged that it is not in dispute that upon receiving the charge sheet dated 7.04.2014, the employee filed his reply and denied the charges *in toto*. In this backdrop, in view of the judgment of Supreme Court in ***O.K. Bhardwaj (supra)***, the department ought to have conducted a regular inquiry. The tribunal has also given such liberty to the department and therefore, no interference may be warranted.

ANALYSIS :

7. In the judgment of ***O.K. Bhardwaj (supra)*** the curtains were finally drawn by Supreme Court and it was held that if an employee is served with a minor penalty charge sheet, which is based on factual averments and in turn, the employee denies the charges *in toto*, the proper course is to hold a regular departmental inquiry. In the instant case, it is not disputed before us that employee filed his response to the charge sheet, which was based

on factual matters. He denied the allegations in totality. In this backdrop, in view of the judgment of **O.K. Bhardwaj (supra)**, a full-fledged inquiry ought to have been conducted.

8. So far the provisions of Postal Manual are concerned, they cannot supersede the statutory Rules framed under proviso to Article 309 of the Constitution of India, namely CCS (CCA) Rules, 1965.
9. Despite noticing the statutory Rules, the Apex Court in **O.K. Bhardwaj (supra)** opined that in a case of this nature, proper course is to conduct a full-fledged inquiry.
10. It is noteworthy that tribunal set aside the recovery order mainly on two grounds. **Firstly**, in certain cases, the main accused person, namely, Shri Bijoy Krishna Naskar was held to be person involved in committing fraud. The appellate authority has not considered the aspect whether delinquent employees are still responsible, when Bijoy Krishna Naskar was the person, who committed the fraud. **Secondly**, in the light of judgment of Calcutta High Court in the case of **Uday Chand Majumdar and Prasenjit Mukherjee (WPCT 112 of 2019 and connected matter)**, no interference is warranted.
11. Putting it differently, the tribunal applied the correct position of law in view of the judgment of **O.K. Bhardwaj (supra)**. The tribunal, after setting aside the punishment order, gave liberty to the respondents to proceed in accordance with law. There was no occasion for the department to file the present petition. This is certainly an avoidable piece of litigation. We say so because learned counsel for department is unable to inform us as to whether against other two connected matters, which were decided by

common order, any writ petition was filed or not. In any case, the right of department to punish the delinquent employee was not foreclosed and it is the department, who failed to avail that remedy and approached this Court.

- 12.** Thus, no case is made out for interference. Interference is declined and the writ petition is **dismissed**.
- 13.** Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(SUJOY PAUL, ACJ.)

I agree.

(PARTHA SARATHI SEN, J.)