

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

Present:-

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

WPCT 158 OF 2023

**Sri Arcaprava Banerjee
VS
Union of India & Ors.**

Appearance:-

For the Petitioner : Mr. Bharat Bhushan, Adv.
Mr. A. N. Mishra, Adv.

For the Respondent No.5 : Mr. Bhaskar Prosad Banerjee, Adv.
Ms. Ekta Sinha, Adv.

For the DRI : Mr. Kaushik Dey, Adv.

Heard on : 02.12.2025

Delivered on : 02.12.2025

Judgment (oral)

Per, Sujoy Paul, ACJ.:-

1. The petitioner was working as superintendent of CGST & CE, Bolpur under the Commissionerate of Bolpur. The petitioner was aggrieved by charge sheet dated 3.1.2023 issued under Rule 14 of CCS (CCA) Rules, 1965. The said charge sheet was unsuccessfully challenged before the Central

Administrative Tribunal (Tribunal) in OA No.350/326/2023, which was dismissed by order dated 11.04.2023.

2. The main contention of the petitioner is of two-fold. Firstly, it is submitted that a proceeding under Section 108 of Customs Act, 1962 was conducted in which three persons' statements, namely, Sujit Swarnakar, Suvankar Pal and Arjun Adhikary were recorded. These statements were recorded by departmental authority behind the back of the petitioner. Thereafter, mainly based on these statements of three persons, aforesaid charge sheet under Rule 14 of CCA Rules was issued.
3. The first contention is that the said statements could not have been recorded in absence of the petitioner.
4. The second argument is that the department issued a circular dated 8th January, 2020 (annexure P-9) for the purpose of ensuring meticulous drafting of charge sheet by the competent authorities. Clause IV of the said circular was relied upon to contend that no statement recorded during investigation can be used against the delinquent employee unless the person is made a witness in Annexure-IV of charge sheet and is examined before the Inquiring Authority. The charge sheet was challenged on this ground by contending that although the statements of the said persons became part of Annexure III they were not made witnesses in Annexure IV (in the list of witnesses). Thus, the charge sheet stands vitiated.
5. Since the Tribunal rejected the said prayer, the present petition under Article 226/227 of the Constitution of India is filed. Learned counsel for the

petitioner reiterated the same stand, which was advanced before the learned Tribunal.

6. Learned counsel for the respondent on the other hand submits that the charge sheet can be interfered with on limited grounds. In this petition such ingredients are not available and hence no interference is warranted.

Analysis :

7. So far as the first contention relating to proceeding under Section 108 of Customs Act is concerned, even assuming that in the said proceeding statements were recorded behind the back of the petitioner, it will not cause any dent on the charge sheet.
8. The charge sheet was issued under Rule 14 of CCS (CCA) Rules. This is trite that charge sheet is not an order. A mere charge sheet or show cause notice does not infringe the right of anyone. It is only when a final order imposing some punishment or otherwise adversely affecting parties is passed then the said party can be said to have any grievance (see **Union of India & Ors. vs. Kunisetty Satyanarayana** reported in **(2006) 12 SCC 28**. This judgement is recently followed by Supreme Court in **State of Jharkhand & Ors. vs. Rukma Kesh Mishra** reported in **2025 SCC OnLine SC 676**.
9. The charge sheet can be interfered with on limited grounds. The Supreme Court in the case of **Union of India vs. Upendra Singh** reported in **1994 (3) SCC 357** opined that charge sheet can be interfered with if allegations mentioned in the charge sheet are admitted *in toto* and yet they do not constitute any misconduct, charge sheet is issued by incompetent authority or it is issued with inordinate delay which cannot be explained. Otherwise,

the employee should defend himself in the departmental enquiry and take all possible grounds of defence in the enquiry.

10. In view of this settled principle, no fault can be found in the charge sheet. If the department intended to introduce the statements, without producing the maker/author of statements, the petitioner can raise objections during inquiry or against the inquiry report (as the case may be). At this stage, we find no reason to interfere with the charge sheet. It will be open for the petitioner to raise all possible grounds during the departmental inquiry or against the inquiry report before the disciplinary authority. This Court has no doubt that in that event, the inquiry officer or disciplinary authority (as the case may be) will consider the grounds taken by the petitioner and will taken decision in accordance with law.
11. With the aforesaid observation and without expressing any opinion on merit, this petition is **disposed of**.
12. Urgent Photostat certified copy of this order, if applied for, be delivered to the learned advocates for the parties, upon compliance of all formalities.

(SUJOY PAUL, ACJ.)

I agree.

(PARTHA SARATHI SEN, J.)