$~44

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

% *Date of Decision: 20.05.2026*

+ **<u>LPA 392/2026</u>**

KULDEEP KUMAR AND ORS .....Appellants

Through: Mr. Yash Vardhan Singh & Ms. Deepti Ahuja, Advocates (through VC).

versus

DELHI POWER COMPANY LIMITED DPCL AND ORS .....Respondents

Through: Ms. Avnish Ahlawat- Standing Counsel along with Mr. Nitesh Kumar Singh, Ms. Aliza Alam & Mr. Mohnish Sehrawat, Advocates for Respondent No.1/ Delhi Power Company Limited (DPCL).

Mr. Sandeep Sethi, Senior Advocate along with Mr. Anupam Varma, Mr. Nikhil Sharma & Ms. S. Akshata, Advocates for Respondent Nos.2 to 9.

Mr. Sudhir Nandrajog, Senior Advocate along with Mr. Anupam Varma, Mr. Nikhil Sharma & Mr. S. Akshata, Advocates for Respondent Nos.10 & 11.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA

TEJAS KARIA, J. (*Oral*)

CM APPL. 34374/2026 (Condonation of Delay)

1. For the reasons stated in the Application, the delay of 39 days in filing the Appeal is hereby condoned.
2. The Application stands disposed of.

CM APPL. 34375/2026 (Condonation of Delay)

3. For the reasons stated in the Application, the delay of 13 days in re-filing the Appeal is hereby condoned.
4. The Application stands disposed of.

CM APPL. 34373/2026 (Exemption)

5. Exemption is allowed, subject to all just exceptions.
6. The Application stands disposed of.

LPA 392/2026

7. The present intra-court Appeal seeks to assail the Order dated 27.01.2026 ("**Impugned Order**") passed in W.P.(C) No.1106/2026 ("**Writ Petition**"), whereby the Writ Petition was dismissed.
8. The Writ Petition was instituted by the Appellants impugning the memorandum / charge-sheet issued by the Respondents to each individual Appellant at different points of time on the ground that the same had been issued without obtaining the approval of the Hon'ble President of India ("**the President**") or the prescribed authority under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ("**Rules**"). The Appellants also sought quashing of the Notification dated 01.04.2024

("**Notification**") issued by Respondent No. 2, contending that the same was contrary to Rule 13 of the Rules.

9. The Appellants, along with certain other employees, were transferred from the Delhi Vidyut Board ("**DVB**"), which was constituted under Section 5 of the Electricity (Supply) Act, 1948 to the Respondents, being Government companies, *vide* order dated 15.11.2001.

10. Prior to the transfer, a Tripartite Agreement dated 28.10.2000 ("**Tripartite Agreement**") was executed between the Government of NCT of Delhi ("**GNCTD**"), DVB, and the Delhi Vidyut Board Joint Action Committee, comprising unions and associations representing the workers of DVB. Under the said Tripartite Agreement, it was assured that no retrenchment of DVB employees would take place on account of their being declared surplus and that their status and service conditions would remain unaltered. It was further provided that, upon transfer, the terms and conditions of service of such employees would continue to be governed by the existing regulations and service rules applicable to DVB.

11. The Appellants were served with respective memorandum, together with statements of articles of charge, on various dates between 2018 and 2025 in terms of Rule 14 of the Rules.

12. Appellant No. 1 was serving as a Technical Officer with Respondent No. 2 and retired on 31.07.2018. During his tenure in service, no charge-sheet was ever served upon him; however, following his retirement, he was served with a memorandum dated 16.11.2018.

13. Appellant No. 2 was initially served with a memorandum dated 28.11.2013 by Respondent No. 2 and was thereafter visited with punishment *vide* Order dated 24.12.2019. Subsequently, Appellant No. 2 was served

with a charge-sheet / memorandum dated 01.03.2023, issued by Respondent No. 4 on behalf of Respondent No. 2, which proceedings are stated to be pending. Thereafter, Appellant No. 2 was again served with a charge-sheet dated 21.03.2025 and was penalized by Respondent No. 2 *vide* Order dated 08.05.2025.

14. Appellant No. 3, who was terminated from the post of Supervisor (O&M), DRG, under Respondent No. 2, was served with a memorandum dated 27.01.2021 together with a statement of articles of charge issued by Respondent No. 5 on behalf of Respondent No. 2.

15. Appellant No. 4 is also a retired employee who held the post of Assistant Manager (AM)(O) and was served with a memorandum dated 23.04.2019 together with a statement of articles of charge issued by Respondent No. 7 on behalf of Respondent No. 5.

16. Appellant No. 5 is presently serving with Respondent No. 5 and was served with a show-cause notice dated 23.01.2019, followed by a memorandum dated 01.01.2019 issued by Respondent No. 7 on behalf of Respondent No. 5.

17. Appellant No. 7 is presently serving with Respondent No. 5 and was served with a show-cause notice and memorandum dated 23.01.2019. Appellant No. 7 was also served with a memorandum dated 05.01.2018 by Respondent No. 10.

18. Respondent No. 3 on behalf of Respondent No. 2 issued the Notification providing the details of Disciplinary Authority and Appellate Authority in respect of the employees of Respondent No. 3 as under:

"Description of Posts	*Appointing Authority*	*Disciplinary Authority*	*Appellate Authority*
All posts below the rank of Asstt Manager /APO/AFO or equivalent (both Technical & Non-Technical)	*CEO*	*DGM(HR) / Sr DGM (HR)*	*Asstt. V.P (HR) Addl. V.P (HR)"*

19. According to the Appellants, the Notification was issued contrary to Rule 13 of the Rules which provides as under:

> ***"13. Authority to institute proceedings***
>
> *(1) The President or any other authority empowered by him by general or special order may –*
>
> *(a) institute disciplinary proceedings against any Government servant;*
> *(b) direct a disciplinary authority to institute disciplinary proceedings against any Government servant on whom that disciplinary authority is competent to impose under these rules any of the penalties specified in rule 11.*
>
> *(2) A disciplinary authority competent under these rules to impose any of the penalties specified in clauses (i) to (iv) of rule 11 may institute disciplinary proceedings against any Government servant for the imposition of any of the penalties specified in clauses (v) to (ix) of rule 11 notwithstanding that such disciplinary authority is not competent under these rules to impose any of the latter penalties."*

20. It was further submitted on behalf of the Appellants that, from the charge-sheets issued to them under Rule 14 of the Rules, it is evident that the disciplinary proceedings were initiated without the authority or approval of the President or any other authority duly empowered by the President by way of a special order. It was contended that all such charge-sheets were issued to the Appellants in contravention of the mandatory requirements of Rule 13 of the Rules.

21. The Appellants further alleged that the Respondents failed to adhere to the Tripartite Agreement and dealt with the employees transferred from DVB arbitrarily and without authority, in violation of the Rules. It was thus submitted that the disciplinary proceedings and the charge-sheets were vitiated by manifest errors of law.

22. Accordingly, the Appellants instituted the Writ Petition, *inter alia*, seeking the issuance of a writ of mandamus for quashing the charge-sheets issued to them, as well as the Notification issued by Respondent No. 2, on the ground that the same were contrary to Rules 13 and 14 of the Rules.

23. The learned Single Judge, *vide* the Impugned Order, observed that the Writ Petition suffered from misjoinder of causes of action, inasmuch as each memorandum pertained to distinct factual issues and separate disciplinary proceedings. It was accordingly held that the Appellants could not club seven independent service disputes into one omnibus petition.

24. The Impugned Order further held that the memoranda/charge-sheets were not issued without competence, as Rule 13 of the Rules does not mandate approval of the President in every case. In arriving at this conclusion, reliance was placed on the decision of the Supreme Court in ***State of Jharkhand & Anr. v. Rukma Kesh Mishra***, 2025 SCC OnLine SC 676, wherein it was held that the requirement of approval depends upon the applicable disciplinary rules and their proper construction.

25. The learned Single Judge has held in the Impugned Order that the Appellants had failed to demonstrate either that the President was the disciplinary authority in their case or that the issuance of the charge-sheets mandatorily required presidential approval, as distinct from the approval of the competent disciplinary authority identified within the hierarchy of the

Respondents. It was further observed that the challenge laid by the Appellants to the charge-sheets and the Notification rested on assumption rather than on a rule-based identification of the competent disciplinary authority within the post-transfer regime.

26. The Impugned Order also considered the contention of the Appellants founded on Article 311(1) of the Constitution of India, 1950, namely, that no person may be dismissed or removed by an authority subordinate to the authority by which such person was appointed. The learned Single Judge observed that Article 311(1) does not invalidate the initiation of departmental proceedings, so long as there is no dismissal or removal by an authority subordinate to the appointing authority.

27. The Impugned Order also dealt with the contention of the Appellants that Rule 14 of the Rules had not been followed and held that Rule 14 does not furnish a ground for declaring a charge-sheet void at its inception, since the said provision merely prescribes the procedure for the imposition of major penalties and any alleged infraction thereof may be examined at the appropriate stage of the proceedings.

28. The Impugned Order further held that the Notification, which delineates the Disciplinary and Appellate Authorities for employees of specified categories, was issued subsequent to the charge-sheets. It is observed that a subsequent delineation of internal disciplinary hierarchies cannot retrospectively invalidate charge-sheets already issued. In any event, it is held that the Notification identifying the Disciplinary and Appellate Authorities within the organization could not be said to be inconsistent with Rule 13(2) of the Rules, which contemplates the institution of disciplinary proceedings by the competent disciplinary authority.

29. The learned Single Judge also found that the charge-sheets dated back to the years 2013, 2018, and 2019, and that no satisfactory explanation had been furnished by the Appellants for invoking the writ jurisdiction of this Court only in the year 2026. It is further held that a combined challenge to seven separate memoranda/charge-sheets spanning such a long period could not be entertained. Consequently, the Writ Petition came to be dismissed *vide* the Impugned Order.

30. Aggrieved by the Impugned Order, the Appellants have preferred the present Appeal.

31. We have heard the learned Counsel for the Appellants.

32. Learned counsel for the Appellants submitted that the learned Single Judge failed to appreciate that employees transferred from the government sector to private entities would continue to retain the status of Government servants, and that the nature and character of such employees would not stand altered by reason of such transfer. It was contended that Rules 13 and 14 of the Rules would continue to apply to them in the same manner as they apply to other Government employees, and that the authority vested in the President could not be assumed by private companies.

33. Learned counsel for the Appellants further submitted that the learned Single Judge failed to appreciate that the charge-sheets had been challenged solely on the ground that the private companies lacked jurisdiction to initiate disciplinary proceedings against the Appellants in the absence of prior approval of the President. It was further urged that, since the Appellants had been transferred from DVB to different Respondents, they could not be treated as separate employees of the respective Respondents for the purposes of disciplinary control.

34. Learned counsel for the Appellants also submitted that, in terms of the Tripartite Agreement, it had been agreed and declared that upon the reorganization of DVB into corporate entities and the disinvestment of such entities by GNCTD, the services of the Appellants would continue to be governed by the existing service rules. It was, therefore, contended that the disciplinary proceedings initiated by the Respondents were null and void and unsustainable in law.

35. On the aforesaid basis, the Appellants prayed for setting aside the Impugned Order.

36. Having considered the submissions advanced on behalf of the Appellants, we are of the view that the principal issue raised in the Writ Petition was that the memoranda/charge-sheets had been issued by the Respondents to the respective Appellants without obtaining prior approval of the President, allegedly in violation of Rules 13 and 14 of the Rules.

37. The learned Single Judge examined the issues of misjoinder of causes of action, the scope of judicial interference at the stage of issuance of a charge-sheet, the applicability of Rules 13 and 14 of the Rules to the Appellants, and the delay in instituting the Writ Petition. The Impugned Order, accordingly, concluded that, having regard to the limited scope of interference at the stage of issuance of a charge-sheet and the inapplicability of Rules 13 and 14 of the Rules to the Appellants, the Writ Petition was not maintainable, particularly in view of the delay and laches as well as the misjoinder of causes of action.

38. The Appellants instituted a composite Writ Petition challenging various memoranda/charge-sheets issued by the Respondents solely on the basis that they were erstwhile employees of DVB who had thereafter been

transferred to the Respondents. The case set up by the Appellants before the learned Single Judge was that, notwithstanding such transfer, the Rules continued to apply to them and, consequently, prior approval of the President was required under Rules 13 and 14 of the Rules.

39. The Delhi Electricity Reform (Transfer Scheme) Rules, 2001 effected the severance of the Appellants from DVB. Rule 6(6) of the Transfer Scheme Rules makes it clear that, upon transfer, the Appellants ceased to be in the service of DVB and could not thereafter assert or claim any service benefits thereunder. Rule 6(7) of the Transfer Scheme Rules preserved continuity of service conditions only as an interim arrangement by providing that, until the transferee framed its own regulations, the existing service conditions of DVB would continue to apply. Rule 6(11) of the Transfer Scheme Rules further provides that all proceedings, including disciplinary proceedings pending or relatable to pre-transfer misconduct, shall not abate and may be continued by the relevant transferee.

40. In view of the above, the learned Single Judge held that the transferee could not be regarded as a mere conduit mechanically applying the legacy rules, and that disciplinary control stood migrated to and vested in the transferee. Reliance was placed on the decision of this Court in ***Brij Mohan v. Government of NCT of Delhi & Anr.***, W.P.(C) No. 6902/2023, wherein it was held that, once absorption had taken effect, the employee could not insist upon the transferor’s disciplinary architecture, and the disciplinary action undertaken by the transferee could not be faulted as being contrary to law. Accordingly, it was held that, in terms of Rule 6(7) of the Transfer Scheme Rules, the appointing and disciplinary powers stood re-allocated to the Respondents.

41. We concur with the analysis and finding recorded by the learned Single Judge in the Impugned Order that, once the Appellants stood transferred to the Respondents, the Rules did not continue to apply as they operated only as an interim service code under Rule 6(7) of the Transfer Scheme Rules until the Respondents framed their own regulations. Once the Respondents have their own rules, the Rules will no longer be applicable to the Appellant. Consequently, the Appellants have failed to establish that no action could be taken against them without prior approval of the President as per the Rules given that the Rules do not apply to the Appellant.

42. The Supreme Court in ***Rukma Kesh Mishra*** (supra), after reviewing the relevant precedents, clarified that whether initiation of disciplinary action requires approval at any particular stage depends upon the governing disciplinary rules and their proper construction. Accordingly, the sole basis of challenge by the Appellants, namely, that the memoranda/charge-sheets were issued without prior approval of the President, cannot be accepted.

43. Further, we find no infirmity in the Notification, which merely sets out the Disciplinary and Appellate Authorities for employees of specified categories. In any event, the Notification was issued subsequent to the issuance of the memoranda/charge-sheets and has no application to the facts of the present case, as it cannot retrospectively invalidate charge-sheets already issued by the competent authority of the Respondents.

44. The considerable delay and laches in approaching this Court have also not been satisfactorily explained by the Appellants. In any event, the Appellants have independent causes of action against the respective Respondents, and the Impugned Order has already safeguarded their right to raise such defences as may be available in law in the respective disciplinary

proceedings, or to pursue remedies available against the final orders, subject to limitation and maintainability.

45. Accordingly, we do not find any ground to interfere with the Impugned Order, which is hereby upheld. The present Appeal is, accordingly, dismissed. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

MAY 20, 2026
'gsr'