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

\+ W.P.(C) 8746/2017

UNION OF INDIA AND ANR .....Petitioners

Through: Mr. P.S. Singh, CGSC, with Mr. Rajneesh K Sharma and Ms. Annu Singh, Ms. Shivangi Sharma, Advs.

versus

DR. SAHADEVA SINGH .....Respondent

Through: Mr. Suhail Dutt, Sr. Advocate with Mr. Sankalp Goswami and Mr. Azhar Alam, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% **16.04.2026**

C. HARI SHANKAR, J.

1. This writ petition assails judgment dated 3 April 2017, passed by Principal Bench of the Central Administrative Tribunal[1] whereby OA 2907/2013 filed by the respondent has been allowed.

2. The only issue for consideration before us, and before the Tribunal, was whether the mandate of the judgment of the Supreme Court in ***Union of India v. B.V. Gopinath***[2] was followed.

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[1] "the Tribunal" hereinafter

[2] **(2014) 1 SCC 351**

3. We may note that Mr. P S Singh, learned CGSC for the Union of India, has also cited a more recent decision of the Supreme Court in ***State of Jharkhand v. Rukma Kesh Mishra***[3].

4. The burden of the song, whether in ***B.V. Gopinath*** or whether ***Rukma Kesh Mishra***, is that the disciplinary proceedings have to be preceded by approval, by the competent disciplinary authority, of the charge-sheet which is proposed to be issued to a charged officer.

5. The relevant paragraphs from ***B.V. Gopinath*** and ***Rukma Kesh Mishra*** may be reproduced thus:

From ***B V Gopinath***

"30. According to the learned senior counsel, the most important issue to be decided by this Court is that *whether the stage of initiating Disciplinary Proceedings is the same as issuing a charge sheet/charge memo*? A plain reading of Rule 14(2) and Rule 14(3) of the Central Civil Services (Classification, Control & appeal) Rules, 1965 makes it amply clear and the only interpretation possible is that *the stage of initiating the disciplinary proceedings U/Rule 14(2) is distinct and separate from issuing a charge memo U/Rule 14(3)* and it is not a continuing act because it is not necessary that every disciplinary proceeding initiated would definitely result in issuing a charge memo because after initiating disciplinary proceedings it may be found from the material on record that, the memo of charge need not be served because the charges may not be made out or a lesser charge could be made out. Mind has to be applied to the evidence and material on record pursuant to initiation of disciplinary proceedings to again come to a fresh decision as to whether now, a charge memo deserves to be issued. Thus, the material before the Disciplinary authority is different at both the stages of Rule 14(2) and Rule 14(3) of the Central Civil Services (Classification, Control & Appeal) Rules, 1965.

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[3] **AIR 2025 SC 1656**

49. We are unable to accept the submission of the learned Addl. 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 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 the 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 Rule 3(1)(i) and (3) (1) (iii) of the Central Civil Services (Conduct) Rules against the officers mentioned in the note which included the appellant herein. <u>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</u>*."

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52. In our opinion, the submission of the learned Addl. 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 law. This plea of the respondent has been accepted by the 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. *<u>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</u>*. 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 finalized upon approval by the disciplinary authority*. Undoubtedly, this Court in the case of ***P.V.Srinivasa Sastry v. CAG***[4], 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:
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>> “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”

From ***Rukma Kesh Mishra***

“30. Reverting to Rule 55 of the 1930 Rules, it is observed that the same did not specify any particular authority to be under an obligation to issue the charge-sheet against a civil servant. In such view of the matter and having regard to the law settled by this Court, it is axiomatic that any officer holding a rank subordinate to the respondent’s appointing authority but superior in rank than the respondent could have issued the charge-sheet. Admittedly, the facts do reveal initiation of disciplinary proceedings against the respondent having the approval of the Chief Minister dated 21st March, 2014. *The draft charge-sheet was part of the proposal dated 13th January, 2014*. *Once the draft charge-sheet **was on record** before the Chief Minister, approval of the proposal to initiate disciplinary proceedings should have been read as including the Chief Minister’s assent not only to the draft charge-sheet, as drawn up,* but also to the other proposals to suspend the respondent as well as appointment of an inquiry officer and presenting officer. In such circumstances, reference by the Division Bench to Rule 17(3) of the 2016 Rules appears to be wholly misplaced since the charge-sheet was not issued under such sub-Rule.”

(Emphasis supplied)

[4] **(1993) 1 SCC 419**

6. The only issue to be considered is whether the proposal for initiation of disciplinary proceedings *as well as the draft chargesheet* proposed to be issued to the charged officer were approved by the competent disciplinary authority before they were issued.

7. It is settled that mere approval for initiation of disciplinary proceedings is insufficient and that the draft chargesheet has also to be put up before the disciplinary authority and approved by the disciplinary authority before it is issued, failing which the disciplinary proceedings would be without jurisdiction *ab initio.*

8. Mr. Singh's contention is that the draft charge-sheet, or at least the draft charges, were approved by the Agriculture Minister, who was the competent disciplinary authority, and that the Tribunal erred in holding otherwise.

9. The file noting preceding the issuance of chargesheet to the respondent, reads thus:

> "11. In view of the above, kind approval of Hon'ble AM is solicited *for initiating disciplinary proceedings against Dr. Sahdeva Singh, Deputy Commissioner in this Department, under Rule 14 of CCS (CCA) Rules, 1965. The Article of charges, a statement of imputation of misconduct or misbehaviour and a list of documents by which and a list of witnesses by whom the article of charge is proposed to be sustained, are placed below for perusal.*
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> Sd/-
> 5/1/09
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> US(P-I) sd/-5/1/09
> Dir(P) sd/-5/1/09
> JS(A) sd/- 06.1.09

AS (PKB) sd/-7/1/09
Secretary (A&C) sd/-10.1.09
AM sd/-12/1/09"

(Emphasis supplied)

10. Though the afore-extracted para 11 from the file noting states that the article of charges, statement of imputations and misconduct and list of documents and list of witnesses were "placed below for perusal" – which is what ***Gopinath*** and ***Rukma Kesh Mishra*** require – the Tribunal has, in para 7 of the impugned judgment, noted and observed as under:

> "7. In para 11 of office notings extracted hereinabove, approval of the Agriculture Minister (delegated disciplinary authority) was sought with regard to initiating disciplinary proceedings under rule 14 of the CCS (CCA) Rules, 1965. *However, from the original record produced before us we find that the aforesaid note was not accompanied with the proposed/draft memorandum of charge, imputations of misconduct or misbehaviour, list of witnesses and list of documents, though the note mentions that the articles of charge, statement of imputation of misconduct, list of documents and list of witnesses by whom the articles of charge are proposed to be sustained are placed for perusal.* The preceding note, i.e., para 10 at p.l2-13/N also does not refer to the charge-sheet or charge memorandum. The said para 10 reads as under:
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> > "10. It would be appreciated that Dr. Singh has committed the following acts which amount to misconduct and 'unbecoming of a Government servant' and thereby violated the provisions of Rule 3 of CCS(Conduct) Rules:-
> >
> > > i. remaining on unauthorized leave and not complying with the orders of the competent authority transferring him to NRAA;
> > >
> > > ii. suppressing of facts and misleading the Hon'ble CAT;
> > >
> > > iii. writing directly to the Hon'ble PM and Hon'ble AM bypassing the prescribed channel of submission, contrary to official propriety and subversive of good discipline;

iv. misuse of the National Emblem in violation of Section 3 of the State Emblem of India (Prohibition of Improper Use) Act, 2005;

v. criticizing the policy of Government and seeking restructuring of the Department of Agriculture & Cooperation, through his representations to the Hon'ble PM."

(Emphasis supplied)

11. Following this, the Tribunal has concluded, in para 8 of the impugned order, thus:

> "8. From the record we find that the charge memorandum is dated 16.01.2009 which was prepared on 13.01.2009, i.e., after the approval was granted by the Hon'ble Agriculture Minister on 10.01.2009. In ***B. V. Gopinath's case*** (supra), the Hon'ble Supreme Court categorically held that where the disciplinary authority himself is not the inquiring authority, the charge-sheet must be approved by him. *In the present case, from para 11 of the official noting reproduced hereinabove we find that only initiation of the disciplinary proceedings was approved by the Hon'ble Agriculture Minister. Though there is reference to the articles of charge, imputation of misconduct or misbehaviour, list of documents and list of witnesses, however, the same were not placed before the disciplinary authority on 10.01.2009*."
>
> (Emphasis supplied)

12. Apropos the observations in para 7 of the impugned judgment, the writ petition of the UOI merely avers, in Ground (I), thus:

> "For that the Learned Tribunal also fell in error by coming to wrong conclusion that since the proposed/draft memorandum of charge mentioned in the note dated 05.01.2009, imputations of misconduct or misbehaviour, list of witnesses and list of documents were not accompanied, it proved that "draft charge-sheet" was prepared after obtaining approval for initiating disciplinary proceedings at Para (11) of the noting dated 05.01.2009 (P.13/N)".

13. We have already noted that, in para 11 at page 13 of the file noting, it was stated that the draft memorandum of charge, statement of imputations of misconduct, list of witnesses and list of documents were placed below the note for the perusal of the Agriculture Minister, being the disciplinary authority.

14. Despite this, the Tribunal has noted in para 7 that the official file showed that there was in fact no such draft charge-sheet placed below the note.

15. At the request of Mr. Singh, as also to satisfy ourselves, we have also perused the original file. The position is exactly as the Tribunal has noted in para 7 of the impugned judgment.

16. The note reproduced by us in para 8 *supra*, which ends with the statement that "(i) article of charges, (ii) statement of imputation of misconduct or misbehaviour, (iii) list of documents and (iv) list of witnesses by whom the article of charge is proposed to be sustained, are placed below for perusal" is followed *only by a sequence of signatures*.

17. Thereafter, we have seen the next page, i.e. page 14 of the file as well and there is no reference to any draft charge-sheet. There is no page between page 13 and page 14 which contains any draft charge-sheet which was put up before the Agriculture Minister.

18. As such, it is apparent that, perhaps by inadvertence, the draft charge-sheet was never in fact put up for approval by the Agriculture Minister as was noted in the note dated 5 January 2009.

19. The omission is fatal.

20. Whether one proceeds as per the exposition of law in ***B.V. Gopinath*** or in para 30 of ***Rukma Kesh Mishra,*** it is essential that the draft charge-sheet was put up before the disciplinary authority and received his approval before the final charge-sheet was issued to the charged officer.

21. This mandatory requirement not having been satisfied, there is no error in the view adopted by the Tribunal.

22. Mr. Singh sought to contend that, in para 10, above para 11 at page 13 of the file noting (reproduced in para 7 of the impugned judgment), enumerated the acts of misconduct committed by the respondent.

23. Mere enumeration of the acts of the misconduct does not constitute a draft charge-sheet. A charge-sheet consists of the statement of articles of charge, statement of imputations of misconduct, a list of witnesses and a list of documents on which the charges are proposed to be proved. Application of mind to the manner in which the Articles of Charge, and the Statement of Imputations of Misconduct, are required to be drawn up, is essential, before a charge-sheet is finalized for service on a charged officer.

24. It is this draft charge-sheet which has to be put up before the disciplinary authority before it is issued, as per ***B.V. Gopinath*** and

Rukma Kesh Mishra. That never took place in the present case.

25. Mr. Singh has also sought to place reliance on the "Central Secretariat Manual of Office Procedure" issued by the Department of Administrative Reforms and Public Grievances, Ministry of Personnel, Public Grievances and Pensions, from which certain select pages have been provided to us.

26. He has placed reliance on paras 23(v) and 25((ii) of the said manual which read thus:

> "23(v) When the 'notes' plus the 'correspondence' portion of the file become bulky (say exceeds 150-200 pages), it will be marked 'Volume I'. Further papers on the subject will be added to the new volume of the same file, which will be marked 'Volume II', and so on. In Volume II and subsequent volumes of the same file, page numbering in notes portion and correspondence portion will be made in continuity of the last page number in note/correspondence portion of the earlier volume".
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> "25(ii) The drafts of letters issued having crucial policy, financial and vigilance implications, where the drafts have been changed by Senior Officers in the process of movement of files upwards, barring grammatical corrections should also form a part of correspondence portion, which shall be numbered *ad seriatim*".

27. We are at a completely loss as to how these clauses are at all relevant, or dilute the law laid down by the Supreme Court in ***B.V. Gopinath*** and ***Rukma Kesh Mishra.***

28. We, therefore, find no cause to interfere with the impugned judgment of the Tribunal, which is upheld in its entirety.

29. The writ petition is accordingly dismissed, with no orders as to costs.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

APRIL 16, 2026
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