



2026:DHC:1745-DB



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

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*Judgment reserved on: 02.02.2026*

*Judgment pronounced on: 27.02.2026*

*Judgment uploaded on: 27.02.2026*

+ W.P.(C) 1053/2026, CM APPL. 5101/2026 & CM APPL.  
5102/2026

UNION OF INDIA& ANR

.....Petitioners

Through: Mr. Ravi Prakash, Sr. Adv.  
with Mr. Amit Tiwari, CGSC,  
Ms. Astu Khandelwal, Ms.  
Ayushi Srivastava, Mr. Ayush  
Tanwar, Mr. Arpan Narwal and  
Mr. Kushagra Malik, Advs.

versus

SAMEER DANYADEV WANKHEDE .....Respondent

Through: Mr. Nidesh Gupta and Mr.  
Saurabh Kirpal, Sr. Advs. with  
Mr. Jatin Parashar, Mr. T.  
Singhdev, Mr. Shadab Anwar,  
Mr. Rohit Bhagat, Mr.  
VritiGurjal, Mr. Samarth  
Luthra, Mr. Bikram Dwivedi,  
Mr. Jimut Baran Mohapatra,  
Mr. Gursimar Preet Singh, Ms.  
Aprajita and Ms. Yamini Singh,  
Advs.

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**J U D G M E N T**

**ANIL KSHETARPAL, J.**

1. While invoking extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, the Petitioners pray for



issuance of a writ in the nature of certiorari to quash and set aside the order passed by Central Administrative Tribunal [hereinafter referred to as 'CAT/the Tribunal'] on 19.01.2026 in O.A. No. 3258 of 2025 while quashing the following Articles of Charges at the initial stage:-

**“Article of Charge 1**

*That Shri Sameer Wankhede, despite having been formally detached from the Narcotics Control Bureau on 02.01.2022 and hence with no mandate relating to investigation of Case No. 94/2021 (NCB), wilfully and deliberately sought sensitive and confidential information from Shri. Japan Babu, the then Departmental Legal Advisor (DLA) of NCB, on 02.06.2022, as evidenced by the telephonic transcript filed by the officer himself before the Hon'ble High Court of Bombay (Annexure-12, Affidavit-in-Rejoinder dated 07.06.2023).*

*By the aforesaid acts of commission and omission, Shri Sameer Wankhede, Ex Zonal Director, Narcotics Control Bureau (NCB), Mumbai, has failed to maintain absolute integrity at all times; behaved in a way which is unbecoming of a Government servant; failed to maintain high ethical standards and honesty; failed to refrain from doing anything which is or may be contrary to any law, rules, regulations and established practices; failed to perform and discharge his duties with the highest degree of professionalism and dedication to the best of his abilities and has thereby contravened Rules 3(1)(i), 3(1)(iii), 3(1)(vi), 3(1)(xviii) and 3(1)(xxi) of the Central Civil Services (Conduct) Rules, 1964.*

**Article of Charge 2**

*That Shri Sameer Wankhede obtained an assurance from DLA of NCB so as to steer the investigation of NCB case no. 94/2021 towards a predetermined outcome for ulterior motive. The extract of transcript of recorded conversation reveals that DLA refers to a prior ??? (gada) or promise - "???? ?????????? ?? ?? ????? ?????"- that suggests some assurance having been sought earlier.*

*This prior assurance in any criminal investigation raises serious doubts about its fairness and integrity. Shri Sameer Wankhede, being the supervisory officer, was expected to conduct investigation in a fair and transparent manner to unearth the truth. By obtaining assurance from DIA towards a premeditated outcome, he appears to have failed to maintain absolute integrity.*

*By the aforesaid acts of commission and omission, Shri Sameer Wankhede, Zonal Director, Narcotics Control Bureau (NCB), Mumbai, has failed to maintain absolute integrity at all times; behaved in a way which is unbecoming of a Government servant;*



*failed to maintain high ethical standards and honesty; failed to perform and discharge his duties with the highest degree of professionalism and dedication to the best of his abilities and has thereby contravened Rules 3(1)(i), 3(1)(iii), 3(1)(vi) and 3(1)(xxi) of the Central Civil Services (Conduct) Rules, 1964.*

*It is not in dispute that the impugned charge memorandum premised upon very material and evidence which the applicant himself had placed before the Hon'ble Bombay High Court in Criminal Writ Petition No.9645/2023, in which an interim stay has already been granted in his favour. Thus, the matter is sub judice before the Hon'ble Bombay High Court.*

*In the above circumstances, we issue notice to the respondents. Mr. Hanu Bhaskar, learned counsel, accepts notice for the respondents.*

*By way of interim measure, we direct the respondents not to proceed further with the departmental enquiry initiated against the applicant, pursuant to the impugned charge memorandum, till the next date of hearing.”*

2. The aforesaid Articles of Charges have been quashed by the CAT on the grounds reproduced as under:-

*“12. At this stage, having regard to the factual matrix of this case, we observe that it is the Respondents who have issued letter dated 02.04.2025 and 03.04.2025 (Annexure A/16 Colly.), further action on which was stayed by this Tribunal vide order dated 15.04.2025 in OA No.4975/2024. The Respondents in gross disregard to the above mentioned stay order stopping further action on their part have moved ahead and now resorted to issuance of major penalty/proceedings against the applicant vide the impugned Charge Memorandum. It is correct that preliminary inquiry is not a pre-condition for deciding a further action to initiate disciplinary action under Rule 14 of the CCS (CCA) Rules, 1965. However, action of Respondents, particularly, in issuing the letter dated 03.04.2025 at page 415 of the paper book wherein the attendance of the applicant has been sought in vigilance investigation being conducted by the Respondents against the applicant regarding initiation of Departmental action against him, such an action was challenged by the applicant in OA No.4975/2025 and this Tribunal vide order dated 15.04.2025 passed the interim order, which reads as under:-*

***“8. Meanwhile, by way of an interim measure, it is directed that the presence of the applicant shall not be insisted upon in pursuance of the communications dated 02.04.2025 and 03.04.2025 referred to hereinabove.”***

*12.1. Therefore, in view of the aforesaid stay on the part of the*



*Respondents seeking attendance of the applicant in connection with initiation of disciplinary action against him, now they have resorted to issuance of impugned Charge Memorandum dated 18.08.2025 under Rule 14 of the CCS (CCA) Rules, 1965. This action on the part of the Respondents is full of highhandedness and taken in a tearing hurry with the intentions to somehow or other, to fix the applicant. Such an action by the Respondents, who are required to uphold the rule of law and provide a reasonable opportunity to the applicant to place his case, is not acceptable and is held to be a harassment and humiliation of a public officer. The motive involved in the issuance of the charge sheet is driven by the above biased considerations, and the inquiry would be a mere farcical show, the conclusion of which is already well known. Hence, we interfere at this stage itself to avoid further harassment and humiliation of the applicant.*

*13. Further, we do not agree with the contention of the learned Senior Counsel for the Respondents when he drew our attention to Rule 14 (2) of the Rules *ibid* and put forth an argument that disciplinary authority himself can inquire into the allegations or conduct an inquiry by appointing an authority to inquire into the charges. We, in view of reasons given in para *ibid* (12.1) hold that this contention of learned Senior Counsel appearing for the applicant is not applicable in this case.*

*14. The Respondents' decision to proceed with the impugned Departmental action is vitiated by grave procedural impropriety, malice in law and abuse of process. Even otherwise, the Respondents conduct in compelling the applicant to disclose his defence in the Departmental proceedings despite the applicant having already placed the relevant call transcription on record by way of rejoinder in the criminal proceedings, is manifestly unfair and exposes the applicant to undue and irreversible prejudice. The deliberate issuance of the impugned Charge Memorandum in the teeth of the subsisting interim direction of this Tribunal constitutes wilful disobedience and gross contempt amounting to conscious interference with the due course of justice and fair play and direct affront to the authenticity and sanctity of the Order of this Tribunal. The chain of events unmistakably demonstrates that the impugned Charge Memorandum bears no real nexus with the purported allegations but appears to be retaliation of Respondents arising out of a number of decisions in the matters of the applicant and also is looked as an endeavour to stall the promotion of the applicant. Such conduct is *ex facie* demonstrative of malice in law and personal vendata and colourable exercise of power.*

*15. Illegality is writ large of the fact that the charges are vague and indefinite and containing bald and omnibus charge without material particulars and even without List of Witnesses which by itself rendering the impugned Charge Memorandum violative of principles*



*of natural justice as authoritatively held by the Hon'ble Delhi High Court in Shameem Akhtar (supra), wherein it has been categorically held that a charge sheet not supported by any list of witness(es) or evidentiary foundation is unsustainable in law. The mechanical manner and undue haste with which the Respondents have acted in the present matter further expose a predetermined mindset, non-application of mind and an overzealous alacrity, wholly incompatible with the wholly incompatible with the fairness and reasonableness mandated by law, leaving no manner of doubt that the Respondents were bent upon penalizing the applicant irrespective of the merits of the case.*

*16. The applicant's counsel has rightly pleaded that the impugned Charge Memorandum suffers from patent violation of the Rule (3) and Rule (4) of the CCS (CCA) Rules, 1965. The provisions contained in Rules 14 (3) and 14 (4) of the CCS (CCA) Rules, 1965.*

*17. It is well-settled that a Charge Memorandum must contain all relevant particulars, including the list of relied-upon documents and witnesses, so as to enable the charged officer to effectively defend himself. However, from the perusal of the impugned Charge Memorandum dated 18.08.2025 (Annexure A/1), we find that in the Annexure-IV of the impugned Charge Memorandum it is stated that "List of Witnesses by whom the Article of Charges framed against Shri Sameer Wankhede, ExZonal director, Narcotics Control Bureau (NCB), Mumbai are proposed to be sustained. 'NIL". Although the Respondents have annexed four documents in support of the charges levelled against the applicant by the said impugned Charge Memorandum, however, the said documents cannot be proved without a list of witness(es). The identical issue had arisen for consideration before the coordinate Bench of this Tribunal in O.A. No. 438/2023 - Smt. Sushmita Saha v. Comptroller and Auditor General of India & Others, decided on 20.01.2025, wherein the coordinate Bench by referring the decisions of the Hon'ble the Hon'ble Delhi High Court.*

*18. In view of the above observations and findings recorded by the Coordinate Bench of this Tribunal in O.A. No. 438/2023 - Smt. Sushmita Saha v. Comptroller and Auditor General of India & Others (supra), the issue raised by the learned counsel for the applicant is no longer res integra. As such we hold that due to the above patent illegality while issuing the impugned Charge Memorandum, the same is void ab initio.*

*19. We further observe that the call transcriptions relied upon for issuance of the impugned Charge Memorandum dated 18.08.2025 constitute the very substratum of the criminal proceedings presently pending before the Hon'ble Bombay High Court. In such circumstances, insisting upon the applicant to disclose his defence or adduce evidence in the Departmental proceedings would amount to*



*compelling the applicant to prejudice his defence in the judicial proceedings. It is a settled proposition of law that Departmental proceedings should not compel an accused employee to disclose his defence in parallel criminal proceedings where the allegations, facts and evidence are common. The Hon'ble Supreme Court in State Bank of India v. R.B. Sharma, reported in (2004) 7 SCC 27, and Capt. M. Paul Anthony v. Bharat Gold Mines Ltd., reported in (1999) 3 SCC 679, has been held that if continuation of a Departmental inquiry has the potential to prejudice the defence of an employee in a criminal case involving identical facts, the disciplinary proceedings deserve to be deferred. Accordingly, the Respondents' insistence on proceeding with the inquiry, despite the pendency of the said criminal matter on the same set of facts, is legally untenable and contrary to the settled principles of natural justice."*

3. In the considered view of this Bench, the following issues require adjudication:

- i. Whether the Articles of Charges issued to an employee without any List of Witnesses is liable to be quashed at the threshold.
- ii. Whether the scope of judicial review in a Petition filed by an employee against the Article of Charges/Imputations is wide enough to set it aside at the threshold on technical grounds.

4. In order to comprehend the issues involved in the present case, the relevant facts are required to be noticed in brief. The Respondent is an Officer belonging to Indian Revenue Services and is currently serving as an Additional Director in DGTS, Chennai. In August 2020, he joined the Narcotics Control Bureau (NCB) as the Zonal Director on loan basis. On 02.10.2021, based on a secret information regarding consumption of narcotics substances, search and seizure proceedings were carried at Green Gate, Mumbai Port Trust and Cordelia Cruise, which ultimately resulted in registration of NCB Case No. 94/2021 (Cordelia Cruise Case).



2026:DHC:1745-DB



5. Thereafter, an affidavit was brought to the notice of the NCB in which it was alleged that the accused persons facilitated a conspiracy to extort Rs. 25 crores (subsequently settled at Rs. 18 crores) from the family of an accused in the said case, thereby resulting in a payment of Rs. 50 lakhs. On 02.01.2022, the Respondent was formally detached from the NCB. The Ministry of Home Affairs constituted a special investigating team in order to conduct a separate enquiry.

6. When the Final report was submitted by the Special Enquiry Team before the Central Bureau of Investigation ('CBI'), procedural lapses by the Respondent in the investigation of Cordelia Cruise Case were alleged. The CBI, on 11.05.2023, registered a regular case bearing No. RC/217/2023/A/0008 under Section 7, Section 7A and Section 12 of the Prevention of Corruption Act, 1988 read with Section 120B and Section 388 of the Indian Penal Code, 1860 against various accused persons including the Respondent. In substance, it was alleged that the accused persons exploited their official position and acted in criminal conspiracy with the private individuals. It was alleged that the Respondent conspired to extort Rs. 25 crores (subsequently settled at Rs. 18 crores) from the family of an accused in the said case, with Rs. 50 lakhs allegedly received as bribe.

7. Accordingly, the Respondent preferred W.P.(ST) No. 9645/2023 captioned ***Sameer Danyadev Wankhede v. Union of India & Ors.***, in the Bombay High Court challenging the registration of Regular Case by the CBI wherein the Court directed the CBI not to undertake any coercive action against the Respondent.



8. On 13.08.2023, a rejoinder was filed by the Respondent before the Bombay High Court along with a call transcript of the Respondent with one Sh. Japan Babu, the then Departmental Legal Advisor (DLA), NCB. It is the case of the Petitioner that the said transcript reveals that despite the Respondent's de-attachment from the NCB, he attempted to extract official and confidential information and sought assurance from the DLA, NCB to manipulate and steer the investigation in a manner suited to him.

9. On 12.12.2024, the Respondent filed an Original Application (O.A.) No. 4975/2024 before the CAT, Delhi challenging and seeking to quash and set aside three letters dated:

- i. 21.06.2024 containing direction to conduct vigilance investigation with respect to mis-declaration/concealment of Respondent's private visits to foreign countries.
- ii. 27.06.2024 (to NCB) containing direction to conduct enquiry with respect to the manner in which the investigation was conducted in the Cordelia Cruise case by the respondent.
- iii. 27.06.2024 (to CBI) containing direction to conduct investigation with respect to the sale/purchase of expensive watches by the petitioner.

10. During its hearing on 12.12.2024, the Respondent produced letters dated 02.04.2025 and 03.04.2025 and the Tribunal, on 15.04.2025, proceeded to pass an Order directing the personal presence of the Respondent not be insisted upon pursuant to the communications in the aforesaid two letters.



2026:DHC:1745-DB



11. Subsequently, the Respondent filed O.A. 2835/2024 challenging the adoption of sealed cover procedure in his promotion case, and it came to be allowed by the CAT on 17.12.2024. On 15.07.2025, the personal presence of Chairman, Central Board of Indirect Taxes and Customs ('CBIC') was directed by the CAT in a proceeding alleging non-compliance of the order passed on 17.12.2024. The Union of India filed a writ petition in this Hon'ble Court challenging the order dated 17.12.2024 on 29.07.2025, but it came to be dismissed on 28.08.2025. A review of the same was also dismissed. An SLP was filed by the Union of India, where the exemption of personal presence of Chairman, CBITC was granted; however, the Tribunal was permitted to proceed with the hearing of the contempt matter. Ultimately, the SLP was dismissed on 19.01.2026.

12. On 18.08.2025, a Charge Memo was issued against the Respondent, which was stayed by the CAT on 27.08.2025 in O.A. 3258/2025. A writ petition bearing no. W.P. (C) No. 339/2026 was filed in this Hon'ble Court challenging the order passed by the CAT on 27.08.2025 in O.A. 3258/2025. This Hon'ble Court, vide its order dated 12.01.2026, was pleased to dispose of the said writ petition with directions to decide the O.A. on 14.01.2026 or within the next 10 days of 14.01.2026. The Ld. Tribunal, vide its order dated 14.01.2026, reserved the O.A. No. 3258/2025 for judgment, and on 19.01.2026, allowed the O.A. and quashed and set aside the Charge Memo.

13. Therefore, the present Petition.



## **CONTENTIONS ON BEHALF OF THE PETITIONER:**

14. The learned senior counsel for the Petitioner contends that the learned Tribunal exceeded their jurisdiction by quashing the Charge Memorandum at the threshold. Reliance is placed on *Union of India v. Kunisetty Satyanarayana*<sup>1</sup>, to contend that a char

gesheet does not infringe any legal right of the delinquent employee; judicial interference at such a premature stage is generally barred unless there is a total lack of jurisdiction or the chargesheet is *ex facie* without any authority of law.

15. It is further contended by the learned counsel that the Respondent rushed to the Tribunal without exhausting the internal remedy of filing a reply against the Chargesheet as provided in *Union of India v. Ashok Kacker*<sup>2</sup>.

16. The learned counsel also contended that the learned Tribunal wrongly quashed the Charge Memo on the ground that the Respondent would then be forced to disclose his defence in the departmental proceedings, failing to take into consideration that the call transcript, on which the Articles of Charges is based, was placed on record by the Respondent himself in W.P. (ST) No. 9645/2023 before the Hon'ble High Court of Bombay.

17. The learned counsel added that the Tribunal has further failed to justify the conclusion to quash the Charge Memo on the ground that the same constitutes the very substratum of the criminal proceedings

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<sup>1</sup>(2006) 12 SCC 28

<sup>2</sup>1995 Supp (1) SCC 180



presently pending before the Hon'ble Bombay High Court. Placing reliance on *State Bank of India v. R.B. Sharma*<sup>3</sup>, the learned counsel submitted that the same constituted an error on the part of the Tribunal.

18. The learned counsel further submits that the Tribunal erred in concluding that the present charge memorandum was issued merely because the Department was unable to take action against the respondent in O.A. No. 4975 of 2024, when in fact the subject matter in both the cases are distinct. The learned counsel further submitted that the interim order dated 15.04.2025 passed by the learned Tribunal in O.A. No. 4975/2024 did not include any stay on the departmental proceedings against the Respondent.

19. Finally, the learned counsel also urged that the Article of Charges are directly founded on the call transcript and are neither vague nor lacking in particulars, making the finding of vagueness recorded by the Tribunal perverse. The learned Tribunal has also erred in not appreciating that the call transcript is an admitted document by the Respondent and hence, there was no requirement of any witness to prove the contents.

20. The learned counsel representing the Petitioner has been heard at length, and with their able assistance, the paper book has also been perused.

### **CONTENTIONS ON BEHALF OF THE RESPONDENT:**

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<sup>3</sup>(2004) 7 SCC 27



21. The learned senior counsel for the Respondent contends that the entire Charge Memorandum is based on the same telephonic transcripts currently under adjudication before the Bombay High Court in W.P. (ST) No. 9645/2023. Reliance is placed on *M. Paul Anthony vs. Bharat Gold Mines Ltd. &Anr., 1999 (3) SCC 679* and *SBI vs. R.B Sharma, 2004 (7) SCC 27* to showcase that while a criminal adjudication is ongoing, disciplinary proceedings ought be stayed.

22. It was contended by the learned counsel that the Department is attempting to bypass the protection of no 'coercive action' granted by the Bombay High Court by issuing a Charge Memo against the Respondent.

23. It was further contended that the Charge Memorandum violates the mandatory requirements of Rule 14(3) and 14(4) of the CCS (CCA) Rules, 1965 as the 'List of Witnesses' was explicitly marked as 'NIL'.

24. It is also submitted that the Articles of Charge were found to be vague, indefinite, lacked material particulars and comprised of bald and omnibus allegations.

25. The learned counsel representing the Respondent has also filed detailed written submissions which have been carefully examined too.

### **ANALYSIS AND FINDINGS:**

26. In substance, the Articles of Charges have been quashed by the CAT on the following grounds:-



- i. The issuance of the Articles of Charge is in violation of the stay order dated 15.04.2025 passed by the Tribunal in O.A. No. 4975/2024.
- ii. Act of issuing Article of Charges by the Petitioner is vitiated by procedural impropriety, malice in law and abuse of process.
- iii. The Respondent has been forced to disclose his defence in the Departmental enquiry.
- iv. The Articles of Charge are vague, indefinite, and contain bald and omnibus charges without material particulars.
- v. Article of Charges is in violation of Rule 14(3)& 14(4) of CCS(CCA) Rules, 1965 as there has been a failure to cite witnesses in the List of Witnesses.

27. It is evident that now the stage is set for analysing the reasons recorded for quashing of the Charge Memo by CAT.

28. Undisputedly, on 15.04.2025, the Tribunal only directed that the personal presence of the Respondent shall not be insisted upon. However, pursuant to the letters dated 02.04.2025 and 03.04.2025, there was no order passed by the Tribunal restraining the Department from issuing Articles of Charges. From the reading of the order, it appears that the Tribunal has tried to pre-judge the issue without realizing that the Tribunal or a Court should and, is expected to exercise self-restraint while entertaining a petition challenging an Article of Charge at the threshold. Interference by the Court at the stage of issuance of Article of Charges is warranted on restricted



grounds and in rare and exceptional circumstances. At a stage, when even an Enquiry Officer was not appointed and only an explanation was sought from the Respondent regarding the charges that were framed against him, the interference by the Tribunal is premature.

29. From a reading of the Impugned Order, it becomes evident that the Tribunal has proceeded to record finding that the Respondent is a decorated officer having received many awards and accolades and during his tenure as the Zonal Director, NCB, various drugs, rackets and gangs have been disintegrated. The Respondent has been credited for busting the menace of narcotic drugs and has honestly carried out his duties to crackdown narcotics abuse. The Tribunal has also noticed that the Respondent has served in various National Agencies like the IB, NIA, DRI, Customs and NCB, and was awarded by the Union Home Minister for excellence in investigation.

30. The Tribunal has also tried to link the case raised by the Respondent with the arrest of Sh. Sameer Khan, son-in-law of Ex-Cabinet, Minister of Maharashtra Sh. Nawab Malik.

31. The Tribunal was not expected to record such an observation at this stage of the proceedings since it amounts to pre-judging the issue. At this stage, only Articles of Charge have been served to the Respondent while granting him the opportunity to furnish his explanation, which may or may not be accepted. In case the explanation furnished by the Respondent is found unsatisfactory, the competent authority may proceed to appoint an enquiry officer or enquire the matter itself.



32. In Paragraph 14 of the Impugned Order, the Tribunal has proceeded to record sweeping observations to the effect that they found the Departmental action to be vitiated by grave procedural impropriety, malice in law and abuse of process without providing sufficient rationale behind them. In Paragraph 16 of the Impugned Order, the Tribunal has upheld the procedural violation of Rule 14(3) and 14(4); extracted as under:-

*“16. The applicant's counsel has rightly pleaded that the impugned Charge Memorandum suffers from patent violation of the Rule (3) and Rule (4) of the CCS (CCA) Rules, 1965. The provisions contained in Rules 14 (3) and 14 (4) of the CCS (CCA) Rules, 1965 are reproduced above:-*

*“14. Procedure for imposing major penalties .....*

*(3) Where it is proposed to hold an inquiry against a Government servant under this rule and rule 15, the disciplinary authority shall draw up or cause to be drawn up-*

*(i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge;*

*(ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain-*

*(a) a statement of all relevant facts including any admission or confession made by the Government servant;*

*(b) a list of documents by which, and a List of Witnesses by whom, the articles of charge are proposed to be sustained.*

*(4) (a) 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 a list of documents and witnesses by which each article or charges is proposed to be sustained.*

*(b) On receipt of the articles of charge, the Government servant shall be required to submit his written statement of defence, if he so desires, and also state whether he desires to be heard in person, within a period of fifteen days, which may be further extended for a period not exceeding fifteen days at a time for reasons to be recorded in writing by the Disciplinary Authority or any other Authority authorised by the Disciplinary Authority on his behalf:*

*Provided that under no circumstances, the extension of time for filing written statement of defence shall exceed forty-five*



*days from the date of receipt of articles of charge.””*

33. In Paragraph 17 of the Impugned Order, the Tribunal observed that the mandatory column for the ‘List of Witnesses’ in the Articles of Charge was recorded as ‘NIL’, indicating an absence of evidence to sustain the charges. The Tribunal, while relying on the judgment in ***Union of India vs. Shameen Akhtar***<sup>4</sup>, and on various orders passed by the CAT, has proceeded to adjudge that, if in support of Article of Charges, no List of Witnesses has been disclosed, there arises a sufficient ground to quash the Article of Charges.

34. The genesis of drawing adverse inference for failure to produce evidence can be traced to Section 114 of Indian Evidence Act, 1872 (which is now Section 119 of the Bharatiya Sakshya Adhinyam, 2023). Section 114, Illustration (g) provides that if a party withholds the best evidence which is under its control, the Court may presume that the evidence it produced would be unfavourable to the persons who withheld it. This is based on the legal conception that a litigating party is expected to produce its most cogent and compelling evidence before the Court, failing which the court may draw an adverse inference against its case. However, at this stage, it will be difficult to finally opine on the aforesaid facts, particularly, when the Enquiry Officer or the presenting office can examine the witness with the permission of the Enquiry Officer.

35. Moreover, presenting oral evidence is not necessary if sufficient documents are relied upon; it will not manifest an error warranting interference provided the documentary evidence is a part of the record

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<sup>4</sup>2015 SCC OnLine Del 14747



and has been duly supplied to the delinquent employee or that he has been given an opportunity to inspect the same, as was settled by the Hon'ble Supreme Court in the case of *Tara Chand Vyas v. Chairman & Disciplinary Authority and Others*<sup>5</sup>. The Tribunal has overlooked the fact that the documents that have been relied upon by the Department for the framing and issue of the Memorandum of Charges were bought on record by the Respondent himself before the Hon'ble Bombay High Court in W.P.(ST) No. 9645/2023 to support his case.

36. A Coordinate Bench of this Court in *Shameem Akhtar (supra)* had refused to interfere with the order passed by the CAT primarily on the ground that the Article of Charges was issued after considerable delay for which there was no satisfactory explanation. Misconduct alleged was during the period 2000-2003, whereas the impugned Memorandum of Charges was issued after a delay of 08 years in the year 2011. Similarly, the Coordinate Bench also held that the failure to provide List of Witnesses can be one of the grounds to quash the Article of Charges.

37. The Division Bench relied upon the judgment passed in *Kuldeep Singh vs. Commissioner of Police And Ors*<sup>6</sup>. In that case, the Supreme Court came to a conclusion that the enquiry report was defective as it was found to be a case of no evidence in support of the Charge Memorandum. Such observations were made at the stage post submission of the enquiry report, which have not been attained herein.

38. Similarly, reliance has been placed on the case of *Roop Singh*

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<sup>5</sup>(1997) 4 SCC 565

<sup>6</sup>(1999) 2 SCC 10



*Negi vs. Punjab National Bank*<sup>7</sup>, which is again a judgment passed by the Apex Court wherein an Enquiry Report was submitted and the Court came to a conclusion that the Department had failed to produce sufficient evidence to make out a charge. In the present case, the enquiry is at a mere preliminary stage of Charge memorandum, thus the cited authority does not come to the Respondent's rescue to legitimise the quashing of initiation of a proceeding.

39. Similarly, in *State of U.P. vs. Saroj Kumar Sinha*<sup>8</sup>, the Supreme Court held that the foundational documents were not supplied, thus the report submitted by the Enquiry Officer was not appropriate, particularly when proper opportunity was not afforded to the Delinquent Officer in the enquiry.

40. Furthermore, Court has not been assisted with the core principle of Section 114, Illustration (g) of the Indian Evidence Act, regarding adverse inference. The best evidence rule provides that a party must produce the most reliable evidence in its control, herein, the admitted transcripts constitute that evidence. Consequently, the failure to attach the List of Witnesses cannot be treated as an abstract proposition of law to quash the Articles of Charge when the primary documentary evidence is already on record.

41. A three-judge bench of the Apex Court in *Pandurang Jivaji Apte v. Ramchandra Gangadhar Ashtekar*<sup>9</sup>, while adjudicating the requirement to draw an adverse inference held that such presumption

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<sup>7</sup>(2009) 2 SCC 570

<sup>8</sup> 2010 (2) SLJ 59

<sup>9</sup>(1981) 4 SCC 569



can be drawn only when material evidence available is found insufficient or absent. Similar view has been taken by the Supreme Court in *Ratan Dev vs. Pasan Devi*<sup>10</sup>.

42. Even if it is assumed that in the absence of List of Witnesses, the Charge Memo is defective, it still remains a curable defect which can be rectified at any point of time with the permission of the Enquiry Officer. The Enquiry officer is not bound by the rules of procedure while holding a domestic/disciplinary enquiry. In substance, in a fact-finding enquiry, strict rules of evidence and procedure are not peculiarly applicable. Furthermore, The Court also relied on *Roop Singh Negi's (supra)*, but overlooked the basic principle for drawing adverse inference as envisaged in Section 114, Illustration (g) of the Indian Evidence Act that allows the Court to draw adverse inference only at an appropriate stage of the trial, which is generally at the conclusion of the trial after appreciation of all the evidence, not prematurely.

43. Learned senior counsel representing the Respondent relies on the judgment passed in *L.I.C. of India vs. Ram Pal Singh Bisen*<sup>11</sup> to support his submission that in the absence of a List of Witnesses, a Charge Memo is required to be quashed. This Court has carefully read the aforesaid judgment. Therein, an Appeal arose from a judgment passed in a Civil Suit that was filed after the conclusion of the Departmental enquiry, wherein no witness was cross-examined. The Hon'ble Supreme Court held that the exhibition of documents in a

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<sup>10</sup>(2002) 7 SCC 441

<sup>11</sup>(2010) 4 SCC 491



civil suit did not imply that their contents stood proved, and this observation cannot be used to infer that a lack of such documents thereof, vitiates the whole case of the department. Moreover, since the present case deals with charges at the threshold stage, the cited authority is anyway inapplicable to the facts. Moreover, in the present case, the document that is relied upon to frame and issue the Charge Memo is a document that was put on record by the Respondent himself before the Hon'ble Bombay High Court in W.P.(ST) No. 9645/2023 in support of his arguments.

44. The next reliance is upon a Division Bench Judgment passed in W.P.(C) 4471/2014, captioned *Union of India v. Ritu Choudhary* and connected matters, decided on 11.12.2019, wherein the Division Bench found that there was no proper explanation for inordinate delay in initiating the disciplinary proceedings. Similarly, the reliance placed on the judgment passed in W.P.(C) 8652/2017 captioned *Ashutosh Goel vs. State Bank of India & Ors.* is also misplaced because in the aforesaid case, the order of penalty was passed only after the Discipline Enquiry

45. Hence, quashing of the Article of Charges against the Respondent on alleged violation of Rule 14(3) and 14(4) of the CCS (CCA) Rules is not sustainable at this stage.

46. The Tribunal has also observed that the issuance of such Memorandum of Charges is a result of malice in law and abuse of process. The Tribunal is probably linking this with its direction to solicit the personal/physical presence of the Chairman of CBIC. It



2026:DHC:1745-DB



may be one of the grounds for expediting the issuance of memo but the Tribunal was expected to go to the substance instead of being influenced by timing. The Tribunal was required to identify whether the interference at this stage was absolutely necessary while recording a finding that such issuance was malicious in law and was a result of abuse of process.

47. Furthermore, the Tribunal's observation that the Respondent is compelled to disclose his defence is unreasonable. The protection against such compulsion has been provided under Article 20(3) of the Constitution of India. The Respondent's claim is weakened by the fact that he voluntarily produced the very same transcripts before the Bombay High Court in his rejoinder. Furthermore, the CBI is investigating the allegation of corruption against the Respondent whereas the alleged misconduct of the Respondent in the Article of Charges is separate and independent. The Charge Memo is not even remotely connected with the aforesaid allegations of corruption. The Respondent has also not been able to prove as to how he has been forced to disclose his defence. The Respondent could have filed an application before the Disciplinary Authority seeking postponement of the reply, while submitting that he is being forced to disclose his defence, which would then have been examined by the competent authority. Interference by the Tribunal by making such strong observations was not called for at this stage.

48. Similarly, the Tribunal in Paragraph 15 of the Impugned Order has also erred in observing that charges are vague and indefinite and contained bald and omnibus charges without material particulars. Both



2026:DHC:1745-DB



the Articles of Charge are specific. In any case, the Respondent will be advised to take this objection to the Enquiry Officer before the Disciplinary Authority rather than filing an O.A. before the Tribunal. As and when such defence is taken by the Respondent, the Disciplinary Authority will examine the same.

49. The Tribunal has not elaborated as to how both the Articles of Charges are vague and indefinite or contained bald and omnibus charges particularly when it is based on the transcript of conversation produced by the Respondent with one Sh. Japan Babu who was the then Departmental Legal Advisor. The transcript revealed the substance of the charges against the Respondent, namely that the Respondent attempted to steer the investigation in the pending case in a particular direction, sought to extract information, and endeavoured to exert influence on the basis of a 'promise'. Therefore, the Articles of Charges did not warrant to be styled as vague and indefinite containing bald omnibus charges.

50. The Tribunal has also erred in observing that the issuance of Charge Memorandum was full of highhandedness and taken in a tearing hurry with the intention to, somehow or other, fix the Respondent. These observations at the stage of issuance of Charge Memorandum, simply on the basis of impressions gathered by the Tribunal were not justified. The issuance of the Charge Memorandum can neither be a punishment nor does it give rise to a cause to action enforceable in a court of law, the employer has merely shown its intention to have a response from the Respondent, which if found unsatisfactory, a fact-finding enquiry can be proceeded with.



51. The Tribunal has also overlooked that the recording of the telephonic conversation was affirmatively produced by the Respondent in 2023 before the Hon'ble Bombay High Court and not after when the Chairman of CBIC was summoned or when the Court held that adoption of sealed procedural in absence of Charge Memo is bad. Hence, the conclusion drawn by the Tribunal that the effort has been made to fix the Respondent only due to the summoning of Chairman, CBIC as this cannot be substantiated from the record, as the Respondent himself had produced the aforesaid transcript in the year 2023. Though, there is a delay of two years, it does not result in vitiating the Charge Memorandum, particularly when the alleged misconduct, if any, needed attention of the competent authority. As noted above, the summoning of Chairman, CBIC may be the reason for expediting the action, however, that cannot be the only reason to issue Charge Memo.

52. The Tribunal has relied upon the judgment passed by the Supreme Court in *State of Punjab vs. V.K. Khanna*<sup>12</sup>. In the aforesaid judgment, the Supreme Court, after considering the facts of the case, came to the conclusion that there was an element of malice or mala-fide motive involved in the matter of issuance of Chargesheet. The Court also found that the authority concerned was so biased that the enquiry could be a mere farcical show. While recording such observations, the Court upheld the judgment of the Hon'ble High Court. It will be noted here that the Chief Minister made a public announcement in that case, which helped the court to come to a

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<sup>12</sup>2001 (2) SCC 330



conclusion that there was a bias against Shri. Khanna. The *ratio decidendi* in the judgment does not, in any way, lay down that in every case, interference is required by the court at the stage of issuance of Charge Memo containing imputations against the delinquent employee.

53. After careful consideration, this Court is of the view that the impugned Charge Memorandum cannot be quashed at the threshold merely on the ground that it was not accompanied by a List of Witnesses. In the present case, the Articles of Charges are founded entirely upon documentary evidence which the Respondent himself placed on record and no reliance is placed on oral testimony, therefore this does not make out any ground validating Courts or Tribunal to interfere in the proceedings.

54. On analysis of the judgments passed by the Hon'ble Supreme Court in *Union of India v. Kunisetty Satyanarayana*<sup>13</sup>; *Ministry of Defence v. Prabhash Chandra Mirdha*<sup>14</sup>; and *Union of India v. Upendra Singh*<sup>15</sup>, it can be clearly made out that Charge Memo and Show Cause Notice can be quashed by the Court or Tribunal at the initial stage of issuance only when: (1) misconduct or other regularity alleged cannot be said to have been made out; (2) charges are contrary to any law; (3) the Chargesheet has been issued by an authority incompetent/patently lacking jurisdiction to initiate the disciplinary proceedings; (4) if malice on the part of the disciplinary authority is established and an employee brings it to the notice of the Court, facts

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<sup>13</sup>(2006) 12 SCC 28

<sup>14</sup>(2012) 11 SCC 565

<sup>15</sup>(1994) 3 SCC 357



2026:DHC:1745-DB



which lead to only one conclusion that the action of initiating a disciplinary enquiry is arbitrary and has been initiated for a mala-fide purpose. Apart from the aforesaid reasons, the Court is not required to interfere at the threshold and any such interference would be premature.

55. Furthermore, it is already well-established that the scope of judicial review against a Charge Memorandum is extremely limited. A court or Tribunal should not normally interfere at the stage of an issuance of a Charge Memo unless the same is issued by an authority that lacks jurisdiction or is barred by law.

56. Consequently, we find that the interference by the Learned Tribunal at this premature stage was unwarranted. The Respondent is advised to exhaust his internal remedies by submitting a reply to the Charge Memo before the Disciplinary Authority.

57. In view of the above, the Petition is allowed. The Impugned Judgment of the Tribunal is hereby set aside.

58. All pending applications shall stand closed.

**ANIL KSHETARPAL, J.**

**AMIT MAHAJAN, J.**

**FEBRUARY 27, 2026**

*sp/kb*