



2026:DHC:8841-DB



\$~29

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

CNR No. DLHC010479452026

+ **W.P.(C) 14729/2026, CM APPL. 68935/2026**

UNION OF INDIA

.....Petitioner

Through: Mr. Raj Kumar, CGSC with
Ms. Vidushi Sah, Adv.

versus

INDRESH KUMAR PANDEY

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MS. JUSTICE NIVEDITA ANIL SHARMA

JUDGMENT (ORAL)

%

05.10.2026

C. HARI SHANKAR, J.

1. This writ petition assails order dated 19 May 2026 passed by the Central Administrative Tribunal¹ in MA 2306/2026 in OA 1997/2025. The impugned order read as under:

“Heard learned counsel for the parties on the point of interim relief. The brief facts relevant for deciding the issue of grant of interim relief are as follows:

The first stage advice from the CVC was not obtained by the respondents before initiation of the chargesheet to the applicant. The affidavit in reply filed by the respondents itself reveals that the Disciplinary Authority had taken a decision to drop all the charges levelled against the applicant by conveying displeasure along with debarring the applicant from taking part in any assignment

¹ “Tribunal” hereinafter



2026:DHC:8841-DB



activities carried out by the Government of India or any State Government for a period of one year. The decision to drop the charges was apparently taken by the Disciplinary Authority under Rule 14(5) of the CCS (CCA) Rules.

Subsequently, the respondents, vide order dated 05.03.2026, appointed an Inquiry Officer to inquire into the same charges mentioned above.

Having heard the respective parties and having gone through the entire pleadings, we are of the prima facie opinion that the respondents could not have appointed an Inquiry Officer to continue the proceedings once the Disciplinary Authority had decided drop the same.

In the above circumstances, by way of interim order, we stay the impugned disciplinary proceedings.

MA No. 2306/2026 stands disposed of.

Dasti.

OA No. 1997/2025

Stand over to 29.07.2026.”

2. We are sanguine that the seven Judge Bench of the Supreme Court, when it rendered its historic decision in ***L. Chandra Kumar v. Union of India***², never even anticipated that such orders would become subject matter of challenge in writ petitions.

3. Mr. Raj Kumar, learned CGSC appearing for the Union of India, has no submissions to offer, when we queried him as to why this Court should interfere with a purely discretionary order of the Tribunal, which results in no irreparable prejudice to the petitioner. He submits that an Inquiry Officer has already been appointed. That can hardly constitute a basis for us to interfere with the aforesaid

² (1997) 3 SCC 261



2026:DHC:8841-DB



order.

4. The Tribunal has proceeded on relevant considerations in passing the order. It is not an order which is passed without reasons. The Tribunal has noted the fact that the first stage advice from the CVC was not obtained before issuance of chargesheet to the respondent; the disciplinary authority had taken a decision to drop all the charges against the respondent, restricting himself to a mere displeasure under Rule 14(5) of the CCS (CCA) Rules and subsequently, the petitioner, vide order dated 5 March 2026, appointed an Inquiry Officer to inquire into the very same charges.

5. The Tribunal has observed that, in view of the decision taken by the disciplinary authority, the Inquiry Officer could not have been appointed to inquire into the very same charges.

6. As we have already noted, Mr. Raj Kumar has unable to point out any error in the impugned order. His only submission is that an Inquiry Officer has been appointed. It is the very appointment of the Inquiry Officer which, according to the Tribunal, is *prima facie* illegal.

7. Besides, as we have already noted, the order is purely discretionary in nature.

8. We are exercising *certiorari* jurisdiction, which is circumscribed by the law declared in the following passages from



2026:DHC:8841-DB

**Syed Yakoob v. K.S. Radhakrishnan³:**

“7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. *A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals: these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or properly, as for instance, it decides a question without giving an opportunity, be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised (vide **Hari Vishnu Kamath v Syed Ahmad Ishaque**⁴, **Nagandra Nath Bora v Commissioner of Hills Division and Appeals Assam**⁵*

³ AIR 1964 SC 477

⁴ (1954) 2 SCC 881

⁵ AIR 1958 SC 398



2026:DHC:8841-DB



and ***Kaushalya Devi v Bachittar Singh***⁶.

8. It is, of course, not easy to define or adequately describe what an error of law apparent on the face of the record means. *What can be corrected by a writ has to be an error of law; hut it must be such an error of law as can be regarded as one which is apparent on the face of the record. Where it is manifest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious mis-interpretation of the relevant statutory provision, or sometimes in ignorance of it, or may be, even in disregard of it, or is expressly founded on reasons which are wrong in law, the said conclusion can be corrected by a writ of certiorari. In all these cases, the impugned conclusion should be so plainly inconsistent with the relevant statutory provision that no difficulty is experienced by the High Court in holding that the said error of law is apparent on the face of the record.* It may also be that in some cases, the impugned error of law may not be obvious or patent on the face of the record as such and the Court may need an argument to discover the said error; but *there can be no doubt that what can be corrected by a writ of certiorari is an error of law and the said error must, on the whole, be of such a character as would satisfy the test that it is an error of law apparent on the face of the record.* If a statutory provision is reasonably capable of two constructions and one construction has been adopted by the inferior Court or Tribunal, its conclusion may not necessarily or always be open to correction by a writ of certiorari. In our opinion, it is neither possible nor desirable to attempt either to define or to describe adequately all cases of errors which can be appropriately described as errors of law apparent on the face of the record. Whether or not an impugned error is an error of law and an error of law which is apparent on the face of the record, must always depend upon the facts and circumstances of each case and upon the nature and scope of the legal provision which is alleged to have been misconstrued or contravened.”

(Emphasis supplied)

9. The Supreme Court has also, in its decision in ***Wander Ltd. v. Antox (India) Pvt. Ltd.***⁷, expounded on the extent of scope of interference in appeal against discretionary orders passed by authorities lower in the judicial hierarchy, thus:

⁶ AIR 1960 SC 1168

⁷ 1990 (Supp) SCC 727



2026:DHC:8841-DB



“14. The appeals before the Division Bench were against the exercise of discretion by the Single Judge. In such appeals, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion. After referring to these principles Gajendragadkar, J. in **Printers (Mysore) Private Ltd. v. Pothan Joseph**⁸:

“... These principles are well established, but as has been observed by Viscount Simon in **Charles Oseinton & Co. v. Jhanaton**⁹ ‘...the law as to the reversal by a court of appeal of an order made by a judge below in the exercise of his discretion is well established, and any difficulty that arises is due only to the application of well settled principles in an individual case’.”

The appellate judgment does not seem to defer to this principle.”

10. It goes without saying that the scope of interference under Article 226 would be even more circumscribed than the scope of interference available to an appellate court.

11. Within the limits of *certiorari* jurisdiction which vests in us, no case is made out to interfere with the impugned order of the Tribunal.

⁸ (1960) 3 SCR 713

⁹ 1942 AC 130



2026:DHC:8841-DB



12. The writ petition is, accordingly, dismissed in *limine*.

C. HARI SHANKAR, J.

NIVEDITA ANIL SHARMA, J.

OCTOBER 5, 2026/aky