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

\+ W.P.(C) 15668/2025, CM APPL. 64112/2025 & CM APPL. 64113/2025

COL. RANJAN SRIVASTAVA .....Petitioner

Through: Mr. Shree Prakash Sinha, Mr. Anand Kumar, Mr. Akshit Anand, Ms. Trishla Kumari and Mr. Gurpreet Das, Advocates

versus

UNION OF INDIA AND ORS. .....Respondents

Through: Mr. Ashish k Dixit CGSC with Aditi Singh GP, Mr. Umar Hashmi adv Mr Mayank Upadhyay Adv Mr. Harshit Chitransh Advs and Major Anish Muralidhar

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

JUDGMENT (ORAL)

% 13.10.2025

C. HARI SHANKAR, J.

1. This writ petition is directed against orders dated 30 May 2025 and 29 August 2025 passed by the Armed Forces Tribunal[1] on the prayer for interim relief contained in OA 1568/2025 and RA 22/2025, filed by the petitioner.

[1] "the Tribunal", hereinafter

2. The order dated 30 May 2025 was itself directed against a tentative chargesheet issued to the petitioner on 5 May 2025 proposing to hold a Court of Inquiry into certain allegations against him. The case of the petitioner before the Tribunal appears to have been that an earlier punishment of reproof had been granted to him and that therefore no chargesheet could have been issued.

3. The OA is presently pending before the Tribunal and the Tribunal is yet to take a final view on the aforesaid submissions of the petitioner.

4. On the plea of the petitioner for stay of the proceedings pursuant to the chargesheet dated 5 May 2025, the Tribunal passed the following order on 30 May 2025:

> "Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has challenged the tenability of the tentative charge sheet issued to him on 05.05.2025 on various grounds.
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> 2. Pursuant to the notice, the respondents were directed to show cause as to whether the tentative charge sheet issued to the applicant is based on the earlier punishment of censure already awarded to him. The respondents have submitted that the earlier punishment of 'Reproof' granted to the applicant has since been revoked and fresh action is now being initiated as per the rules and power vested with the Competent Authority. They have prayed for and are granted four weeks' time to file a detailed counter affidavit.
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> 3. The respondents further submit that they may be permitted to proceed with the disciplinary proceedings against the applicant, subject to the final outcome of the present application. However, Mr. Anand Kumar, learned counsel for the applicant has objected to the same, contending that since the applicant has already been punished for the same allegation, any fresh proceedings would amount to double jeopardy.

4. In response, the respondents have submitted that the earlier punishment of censure in the form of 'Reproof' has been withdrawn and they seek to place on record various factors to justify the initiation of fresh proceedings.

5. Keeping in view the above submissions, we are not inclined to grant any interim relief at this stage. The respondents may proceed with the disciplinary action as contemplated under law. However, they shall not take any final decision in the matter without obtaining leave of this Tribunal.

6. List again on 31.07.2025.

7. Let a copy of this order be given 'DASTI' to both the parties."

5. The petitioner thereafter moved RA 22/2025 seeking review of the order dated 30 May 2025. By the following order dated 29 August 2025, the Tribunal disposed of the RA:

"This is an application filed under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 seeking review of the order dated 30.05.2025 passed in OA 1568/2025.

2. Having heard learned counsel for the parties, we find that there is no error apparent on the face of the record and there being a delay of 30 days, MA 3355/2025 has also been filed seeking condonation of the same, for which there is no satisfactory explanation.

3. In our considered view, there is no error apparent on the face of the record warranting review or recall of our order passed in OA 1568/2025 on 30.05.2025.

4. In view of the aforesaid, the RA stands dismissed both on the ground of merit and delay.

5. MA 3355/2025 and RA 22/2025 stand disposed of."

6. The petitioner has now approached this Court by means of the present writ petition assailing the aforesaid orders dated 30 May 2025

and 29 August 2025.

7. At the very outset, learned counsel for the petitioner acknowledges the fact that concurrent satisfaction of the requirements of a *prima facie* case, balance of convenience and irreparable loss is necessary for any interim relief to be granted.

8. The Tribunal has more than adequately protected the petitioner by directing that no final order, pursuant to the disciplinary proceedings would be taken, without leave of the Tribunal.

9. We fail to understand in such circumstances how the requirement of irreparable loss, which is even as per the learned counsel for the petitioner, an indispensable *sine qua non* for interim relief to be granted, stands satisfied.

10. On repeated queries in this regard being posed, learned counsel submits that irreparable loss would ensue because the time of the Armed Forces, and of the petitioner, would be wasted.

11. We are ignorant of any law on the basis of which such a consideration would be said to amount to irreparable loss.

12. Even otherwise, there is a wide swathe of decisions, which hold that disciplinary proceedings should be not interdicted while they are going on. We may cite in this context judgment of the Supreme Court

in ***UOI v Upendra Singh***[2].

13. A third consideration which impels us not to interfere us in this case is that we are exercising certiorari jurisdiction under Article 226 of the Constitution of India. The parameters of such jurisdiction stand delineated in the following passages from ***Syed Yakoob v K.S. Radhakrishnan***[3] :

> "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*

[2] **(1994) 3 SCC 357**
[3] **AIR 1964 SC 477**

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] *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

[4] **(1954) 2 SCC 881**
[5] **AIR 1958 SC 398**
[6] **AIR 1960 SC 1168**

been misconstrued or contravened."

(Emphasis supplied)

14. The impugned orders have been passed merely in exercise of the discretionary authority vested in the Tribunal. The orders are clearly not bad for want of jurisdiction. Discretionary orders such as these cannot legitimately constitute a ground to interfere under Article 226, except where they are egregiously perverse or suffer from patent illegality.

15. Inasmuch as the Tribunal has protected the petitioner by directing that final orders be not passed following the Court of Inquiry without obtaining leave of the Tribunal, it is clear that the manner in which the Tribunal has exercised the jurisdiction vested in it is completely wholesome, and adequately protects the interest of the petitioner.

16. To our mind, the petitioner is attempting, by one means or the other, to stultify the disciplinary proceedings against him. We deprecate this practice.

17. We would have been inclined to award costs in this matter. However, as we are not issuing notice in this petition, we refrain from doing so.

18. The petition is, accordingly, dismissed in *limine*. We make it clear that the respondents should proceed with the disciplinary action

with due expedition.

C. HARI SHANKAR, J

OM PRAKASH SHUKLA, J

OCTOBER 13, 2025/yg