



2026:DHC:3256-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 5038/2026 and CM APPL. 24782/2026, CM APPL.
24783/2026 & CM APPL. 24784/2026

CHANDAN MISHRA DWIVEDIPetitioner

Through: Mr. Sanjoy Ghose, Sr. Adv.
with Mr. Ashim Shridhar and Ms. Radhika
Gupta, Advs.

versus

UNION OF INDIA & ORS. ...Respondents

Through: Mr. Ripudaman Bhardwaj,
CGSC with Mr. Kushagra Kumar and Mr.
Amit Kumar Rana, 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 order dated 2 April 2026 passed by the Central Administrative Tribunal¹ in OA 4803/2024.
2. The respondent is serving as the Chief Controller of Accounts in the Central Board of Indirect Taxes and Customs, New Delhi².
3. On the allegation that there were certain irregularities

¹ "Tribunal" hereinafter

² "CBIC" hereinafter



committed by her with respect to the Assistant Accounts Officer³ (Civil) Examinations conducted in 2013-14, the petitioner was issued a show cause notice on 28 March 2016, seeking an explanation. The petitioner submitted an explanation on 11 April 2016. Thereafter, no disciplinary inquiry was conducted immediately following the show cause notice.

4. The petitioner was promoted as Chief Controller of Accounts in the CBIC on 18 June 2021.

5. On 27 June 2023, the petitioner was issued a memorandum⁴ proposing to initiate disciplinary proceedings against her, under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The allegation in the charge sheet pertained to the subject matter of the earlier show cause notice/memorandum dated 28 March 2016, i.e., that there were certain irregularities committed by her with respect to the AAO Examinations conducted in 2013-14.

6. The petitioner submitted a written statement of defence on 7 July 2023. An Inquiry Officer was appointed by the respondent on 22 November 2024 for inquiring into the allegations against the petitioner.

7. At this stage, the petitioner approached the Tribunal by way of OA 4803/2024, in which the impugned judgment has come to be passed.

³ "AAO" hereinafter

⁴ "Charge sheet" hereinafter



8. The petitioner sought interdiction, by the Tribunal, with the disciplinary proceedings even at that stage. The Tribunal has rejected the request and has proceeded to dismiss the OA. Insofar as the aspect of delay is concerned, the Tribunal has dealt with the matter in the following paragraphs of the impugned order:

“32. It is not in dispute that the allegations pertain to the period 2013-2014 and that the Charge Memorandum has been issued on 27.06.2023. The principal contention of the applicant is that the delay of nearly 10-11 years vitiates the proceedings. We are unable to accept this contention in the facts of the present case. The respondents had asked the applicant to show cause why no action is to be taken against her by their SCN dated 28.03.2016 and the applicant had offered the explanation on 11.04.2016. The respondents have explained that the matter was under investigation by the CBI and that relevant records having been seized by CBI were not available with the Department during that period from 11.04.2016 to 19.02.2021. It was only when the CBI submitted the final tranche of 12,506 documents on 19.02.2021 recommending action, the respondents had access to all the supporting documents. The respondents have clearly explained the subsequent action taken by them, narrated in detail in paragraph 22 above. Thus, the delay cannot be said to be wholly unexplained or attributable to inaction on the part of the respondents.

33. It is well settled that there is no straightjacket formula for quashing disciplinary proceedings on the ground of delay. In *State of Andhra Pradesh v. N. Radhakrishnan*⁵ (supra), the Hon'ble Supreme Court has held that each case must be examined on its own facts and circumstances. Similarly, in *Government of Andhra Pradesh v. V. Appala Swamy*⁶ (supra), it has been held that delay in disciplinary proceedings cannot be a ground to quash the proceedings unless it is shown to have caused serious prejudice to the delinquent officer.

34. In the present case, the applicant has not been able to demonstrate any specific prejudice which cannot be addressed to her satisfaction in the course of the inquiry or thereafter. General allegations regarding fading memory of witnesses or non-

⁵ (1998) 4 SCC 154

⁶ (2007) 14 SCC 49



availability of records are not sufficient to interdict the proceedings at this stage.

35. It is also a settled principle that ordinarily a charge memorandum should not be interfered with at the initial stage itself in exercise of judicial review. In *Union of India v. Kunisetty Satyanarayana*⁷, it has been held that a charge-sheet does not give rise to any cause of action and the delinquent employee must be permitted to participate in the inquiry and establish his defence.”

9. The petitioner also sought to contend, before the Tribunal, that, as she had been promoted in 2021, the charge sheet ought not to have been issued thereafter. This aspect has also been addressed by the Tribunal in para 36 of the impugned judgment, which reads thus:

“36. The contention of the applicant regarding promotion in the year 2021 also does not advance her case, as it is not in dispute that no charge memorandum had been issued at that time. Promotion granted in such circumstances cannot be treated as condonation of the alleged misconduct.”

10. Aggrieved by the impugned judgment, the petitioner has approached this Court under Article 226 of the Constitution of India. We have heard Mr. Ghose, learned Senior Counsel for the petitioner and Mr. Ripudaman Bhardwaj, learned Counsel for the respondents.

11. Mr. Ghose submits that the Tribunal has erred both on the aspect of prejudice as well as while examining whether there was any cogent explanation for the delay issuing the charge sheet. On the aspect of prejudice, Mr. Ghose has invited our attention to the written statement of defence dated 7 July 2023 filed by the petitioner by way of response to the charge sheet, particularly to the first paragraph

⁷ (2006) 12 SCC 28



thereof, which reads as under:

“The undersigned acknowledges the receipt of the Memorandum No. C-11021/ 41/15/ CGA/100/ Combined /Vol.IV/288 dated 27/6/2023. The matter pertains to 2013 and 2014 AAO (Civil) Exams. The Memorandum has been served after the lapse of almost a decade. Despite huge delays, there is no new fact now which was not known to the authorities at that time. This action has caused a severe negative impact on the career prospects of the undersigned. This inordinate delay has led to the retirement of most of the officials concerned with the matter. It is now very difficult for the undersigned to approach the officials concerned who have either retired or expired and get their version to defend her case. This inordinate delay has caused the undersigned undue distress and harassment.”

12. Mr. Ghose submits that, while dealing with the aspect of prejudice, the Tribunal has not applied its mind to the afore-extracted submission of the petitioner as contained in her written statement of defence.

13. On the aspect of explanation for the delay in issuing the charge sheet, Mr. Ghose submits that the findings of the Tribunal are equally unsustainable. He submits that the mere fact that certain documents were with the CBI could not be a justification for the delay. He further submits that in the case of Mr. Jawahar Thakur, who was also charge sheeted in connection with the same events, a charge sheet was issued in time and that, therefore, there was no reason why the petitioner’s charge sheet was delayed.

14. Mr. Ghose also submits, relying on the judgment of a Division Bench of this Court in *Than Singh v. UOI*⁸, that, as the petitioner was

⁸ 104 (2003) DLT 25



promoted between the issuance of the memorandum dated 28 March 2016 and the charge sheet dated 27 June 2023, there was a presumption that she was not found guilty of any misconduct and that, therefore, even on that ground, the Tribunal ought to have quashed the charge sheet.

15. Having heard Mr. Ghose, learned Senior Counsel for the petitioner, we regret our inability to agree with him.

16. We find that most of the judgments cited by the petitioner, before the Tribunal, dealt with the issue of whether the protraction of disciplinary proceedings could be a ground to quash the charge sheet. We are not here concerned particularly with the case of protraction of disciplinary proceedings but of alleged delay in issuing the charge sheet. On the aspect of whether delay is sufficient in issuing a charge sheet is sufficient to interdict the disciplinary proceedings at that stage, the position of the law is no longer *res integra*. The Supreme Court has, in *Ministry of Defence v. Prabhash Chandra Mirdha*⁹, which dealt with the earlier decision of the Supreme Court in *State of Madhya Pradesh v. Bani Singh*¹⁰, ruled thus:

“12. Thus, the law on the issue can be summarised to the effect that the charge-sheet cannot generally be a subject-matter of challenge as it does not adversely affect the rights of the delinquent unless it is established that the same has been issued by an authority not competent to initiate the disciplinary proceedings. Neither the disciplinary proceedings nor the charge-sheet be quashed at an initial stage as it would be a premature stage to deal with the issues. Proceedings are not liable to be quashed on the grounds that proceedings had been initiated at a belated stage or

⁹ (2012) 11 SCC 565

¹⁰ 1990 Supp SCC 738



could not be concluded in a reasonable period unless the delay creates prejudice to the delinquent employee. Gravity of alleged misconduct is a relevant factor to be taken into consideration while quashing the proceedings.”

17. The general principle is that, ordinarily, a Court should not interfere with the disciplinary proceedings merely because they were initiated by a belated charge sheet. The two factors which are required to be considered by the Court in such cases is, firstly, whether the belated issuance of the charge sheet has resulted in prejudice to the charged officer and, secondly, whether there is any reasonable explanation provided by the Disciplinary Authority for delay in issuance of the charge sheet.

18. Insofar as the aspect of prejudice is concerned, we are unable to accept the ground urged in the opening paragraph of the petitioner’s written statement of defence, extracted in para 11 as making out a case of prejudice caused by delay in issuance of the charge sheet. All that is stated in the said paragraph is that most of the officers concerned with the matter had retired and that it was very difficult for the petitioner to approach the officers to get their version to defend her case. This submission is as vague as it can be. There is no reference to the identities of the officials concerned. Indeed, if such an explanation were to be accepted, it would result in consigning the law relating to interdiction of disciplinary proceedings on the ground of delayed issuance of the charge sheet to oblivion.

19. In case the respondents desired to obtain the version of other officials who were concerned with the matter, we do not understand



why that version could not be obtained even if they retired. It would also be open to the petitioner during the disciplinary proceedings, to cite the evidence of any such official or other witness as the petitioner may choose, to defend the charges against her.

20. Indeed, we may note that cases where delayed issuance of the charge sheet is prejudicial are normally cases in which the evidence has either vanished, or the charge sheet is issued after such an inordinate delayed length of time that the charged officer is not in a possession thereafter to access the records or able to effectively defend the case.

21. We do not find that any such case has been made out by the petitioner in the present case. We, therefore, agree with the finding of the Tribunal that no case of prejudice resulting out of delayed issuance of the charge sheet was made out.

22. Insofar as the aspect of explanation for delay in issuance of the charge sheet is concerned, we must remind ourselves that we are not sitting in appeal over the decisions of the Tribunal, but exercising *certiorari* jurisdiction, which is circumscribed by the following passages from *Syed Yakoob v. K.S. Radhakrishnan*¹¹:

“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*

¹¹ AIR 1964 SC 477



*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**¹², **Nagandra Nath Bora v Commissioner of Hills Division and Appeals Assam**¹³ and **Kaushalya Devi v Bachittar Singh**¹⁴).*

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

¹² AIR 1955 SC 233

¹³ AIR 1958 SC 398

¹⁴ AIR 1960 SC 1168



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)

23. That apart, we find that the view of the Tribunal that there was no unexplained delay in issuance of the charge sheet is also, on merits, unexplainable. We have already extracted, hereinbefore, para 32 of the impugned judgment, which sets out the explanation given by the respondent. The respondent has clearly stated that the relevant records were in the custody of the CBI and were released only in 2021. They have also referred to certain administrative instructions which required disciplinary proceedings to await the investigation by the CBI.

24. Insofar as the aspect of issuance of charge sheet to Mr. Jawahar Thakur is concerned, we do not expect the Tribunal to have, nor can



we be expected, to enter into the aspect of whether the circumstances in the case of Jawahar Thakur were different from those in the case of the petitioner. The mere fact that a charge sheet may have been issued to Mr. Jawahar Thakur prior to that issued to the petitioner cannot be a ground to quash the disciplinary proceedings against the petitioner wholesale when there was a reasonable explanation for delay in issuing the charge sheet.

25. The third submission of Mr. Ghose which is that the petitioner had been promoted in the meanwhile and that, therefore, there was a presumption that she was not found guilty of any misconduct, is also not acceptable in law. The judgment on which Mr. Ghose relies merely states that such a promotion may give rise to a presumption that any misconduct, if any, had been condoned.

26. The Supreme Court has held in *Union of India v. K.V. Jankiraman*¹⁵, that the mere fact that the Charged Officer may have been promoted in the interregnum does not necessarily mean that all the charges against the Charged Officer stand dropped or that the Charged Officer is excused from the requirement of answering the charges against her/him. We may reproduce the relevant paragraphs of the said decision thus:

8. The common questions involved in all these matters relate to what in service jurisprudence has come to be known as “sealed cover procedure”. Concisely stated, the questions are: (1) What is the date from which it can be said that disciplinary/criminal proceedings are pending against an employee? (2) What is the course to be adopted when the employee is held guilty in such

¹⁵ (1991) 4 SCC 109



proceedings if the guilt merits punishment other than that of dismissal? (3) To what benefits an employee who is completely or partially exonerated is entitled to and from which date? The “sealed cover procedure” is adopted when an employee is due for promotion, increment etc. but disciplinary/criminal proceedings are pending against him at the relevant time and hence, the findings of his entitlement to the benefit are kept in a sealed cover to be opened after the proceedings in question are over. Hence, the relevance and importance of the questions.

27. As the Tribunal has correctly held, the petitioner would have every opportunity to defend the charges against her in the disciplinary proceedings. We are sanguine that the respondents would conduct the proceedings with all due expedition and without any unnecessary delay at all.

28. We make it clear that we have not examined the merits of charges against the petitioner nor have we examined any aspect of procedure during the conduct of the disciplinary proceedings. We have only considered whether a case for interdicting the proceedings at the initial stage merely on the ground that there was a delay in issuance of the charge sheet is made out. We are in complete agreement with the Tribunal that the answer to the question has necessarily to be in the negative.

29. Accordingly, we find no cause to issue notice in this writ petition which is accordingly dismissed in *limine*.

30. Needless to say, all contentions of fact and law shall remain open to be urged in the disciplinary proceedings.



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31. We also make it clear that this order would not preclude the petitioner from re-approaching the Court at any appropriate stage, should cause arise.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

APRIL 16, 2026

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