



2026:DHC:6245-DB



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

*Reserved on: 5 May 2026
Pronounced on: 4 August 2026*

CNR No. DLHC010232882022

+ **W.P.(C) 9366/2022, CM APPLs. 28079/2022, 28081/2022 & 61148/2023**

DR BELA SHAHPetitioner
Through: Mr. S.D. Singh, Ms. Shweta Sinha, Mr. Kamla Prasad, Ms. Meenu Singh and Mr. Siddharth Singh, Advs.

versus

INDIAN COUNCIL OF MEDICAL RESEARCH & ORS.Respondents
Through: Mr. Jasbir Bidhuri and Mr. Arun Sanwal, Advs.

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

JUDGMENT
04.08.2026

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C. HARI SHANKAR, J.

[Statutory provisions have been extracted in footnotes to the extent relevant.]

1. By office order dated 31 December 1998, the petitioner, who was then serving as Deputy Director General of the Indian Council of



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Medical Research¹ was appointed, with the sanction of the Director General² of the ICMR, to the post of Senior Deputy Director General³ (Non-Communicable Diseases) on a pay scale of ₹18,400/- per month. The office order, which was issued by the Assistant Director General (Admn.) for the DG specifically, stated that the appointment was with the approval of the Executive Committee⁴ of the ICMR.

2. The petitioner functioned as head of the Department of Non-Communicable Diseases in the ICMR between August 2006 and November 2008. With respect to the discharge of her duties during this period, the petitioner was issued memorandum dated 27 / 30 April 2015, intimating her that the DG proposed to hold an inquiry against her under Rule 14⁵ of the Central Civil Services (Classification,

¹ "ICMR", hereinafter

² "DG", hereinafter

³ "Senior DDG", hereinafter

⁴ "EC", hereinafter

⁵ 14. **Procedure for imposing major penalties –**

(1) No order imposing any of the penalties specified in clauses (v) to (ix) of Rule 11 shall be made except after an inquiry held, as far as may be, in the manner provided in this rule and rule 15, or in the manner provided by the Public Servants (Inquiries) Act, 1850, where such inquiry is held under that Act.

(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.

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Control and Appeal) Rules, 1965⁶ for perceived acts of misconduct on her part. The memorandum was signed by the Senior DDG and Chief Vigilance Officer⁷. The memorandum contained four articles of charges against the petitioner which, in substance, dealt with a note which had been approved by the petitioner for transfer of a plot in favour of the ICPO – ICMR Cooperative Group Housing Society. It was alleged that the petitioner had approved the note and had not raised any issue during discussion in the meeting of the governing body of the ICMR with respect thereto. It was alleged that the transfer of the plot was unauthorised as it had originally been allotted to the ICMR by the New Okhla Industrial Development Authority⁸ for construction of staff quarters, whereas the ICPO – ICMR Cooperative Group Housing Society was a private housing society consisting of members working in the ICMR. Various allegations with respect to the transfer of the plot in favour of the ICPO – ICMR Cooperative Group Housing Society were levelled, including, *inter alia*, the approval, by the petitioner, of the decision to accept a cheque for ₹1,40,66,049- in favour of the DG, ICMR as part consideration.

3. Without subjecting herself to disciplinary proceedings, the petitioner challenged the aforesaid memorandum⁹ dated 30 April 2015 before the Central Administrative Tribunal¹⁰ by way of OA 3428/2015. Essentially, the petitioner contended before the Tribunal, in the OA, that the charge sheet had been issued by an Incompetent Authority, as the Senior DDG and CVO were not her Disciplinary

⁶ “CCS (CCA) Rules”, hereinafter

⁷ “CVO”, hereinafter

⁸ “NOIDA”, hereinafter

⁹ “charge sheet”, hereinafter

¹⁰ “the Tribunal”, hereinafter



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Authority¹¹. Neither, for that matter, submitted the petitioner, was the DG her DA. The petitioner asserted that her DA was the EC and none other than the EC could have issued the charge sheet to her.

4. Additionally, the petitioner also sought to contend that allegations in the charge sheet, even if treated as correct, did not make out a case of actionable misconduct on her part. The Tribunal has proceeded, by judgment dated 29 January 2020, to dismiss the OA.

5. Aggrieved thereby, the petitioner has approached this Court by means of the present writ petition.

6. The impugned judgment completely refuses to deal with the petitioner's contention that no case of misconduct was made out on the charges contained in the charge sheet. In this regard, the Tribunal has merely held that the charges against the petitioner were "very serious" and that the truth thereof had to be examined only in the inquiry proceeding.

7. The Tribunal has, nonetheless, proceeded to deal with petitioner's contention that the charge sheet was issued by an incompetent authority, nothing, quite correctly, that if the authority issuing the charge sheet was not competent to do so, that could constitute a legitimate basis for the petitioner to challenge the charge sheet without subjecting herself to disciplinary proceedings.

Signature Not Verified¹¹ "DA", hereinafter

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8. In this regard, the Tribunal has held thus:

“6. The respondents have placed before us, an Appendix to the Service Rules dealing with the powers conferred with the Director General. Heading of the Appendix reads as under:

“Schedule of powers vested in the Director General, Indian Council of Medical Research”

7. As regards the initiation of disciplinary proceedings, etc., the extent of power conferred upon the Director General. is as under:

XIV Appointment, Termination of Appointment		
73	Making appointment to posts under ICMR	(a) Full powers to make appointments to posts in Group 'A'. the maximum of the Grade pay of which does not exceed Rs.10,000/- p.m., subject to selection being made by a duly constituted Selection Committee. (b) Full powers in respect of Group B and C posts.
74.	Dispensing with a medical certificate of fitness before appointment to ICMR service in individual cases As per FR	Full powers
75.	Suspending a lien. As per FR	Full powers
76.	Transferring a lien. As per FR	Full powers
77	Transferring a ICMR employee from one post to another	Full powers
78	i) Accepting the resignation of a ICMR employee. ii) Permitting withdrawal of resignation	Full powers

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	As per FR	
79	Sanctioning an officiating promotion in a short term vacancy. Ministry of Finance OM. F.10(2)f(Coord.)/71 dated 18.11.1971	Full powers to fill a vacancy, the duration of which exceeds 5 days.
80	Appointing ICMR employee to officiate in more than one post and fixing- (a) His pay in subsidiary posts; and (b) The amount of compensatory allowance to be drawn by him.	Full powers
81	(i) Retiring ICMR employee in the public interest after he has attained the age of 50 years or 55 years as the case may be. (ii) withholding permission to ICMR employee under suspension who seeks to retire. As per FR	i) Full powers in respect of employees holding posts to which he can make substantive appointment. ii) Full powers in respect of employees holding posts to which he can make substantive appointment.
82	Retaining ICMR Scientist in service after the age of 62 years	Full powers provided the Scientists are recommended for re-employment beyond 62 years and approved by MOH& FW limited to a period of one year at a time and upto the age of 65 years.
83	To declare a ICMR employee to be a ministerial	Full powers as per instructions issued by DOPT from time to time.

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	employee	
84	To relax the normal procedure of recruitment through the employment exchange for direct appointment to posts and services. As per FR	Full powers to dispense with the procedure of recruitment to Group C posts through the employment exchange where: i) a near relation or a deceased employee is to be employed, as a measure of immediate assistance to the family, or ii) a temporary employee is to be reappointed to a post, as he failed to resume duty at the end of the maximum period of Extra-ordinary Leave admissible to him and hence ceased to be in service. iii) a retrenched employee of ICMR is to be appointed.

8. He is conferred with the powers of appointment and termination of appointment, for all the posts under ICMR. Another important aspect is that, after receiving the charge memo, the applicant addressed letter dated 16.05.2015, to the Director General. She wanted to impress upon him that the charge memo was issued by an Inquiry Officer, though the Director General happens to be the DA. The first page of the letter reads as under:

“I. I am constrained to approach you as my disciplinary authority, on whose behalf the Sr. Dy DG & CVO, ICMR, has issued the impugned charge-sheet Memo., without authorization as valid in law. It is most respectfully and humbly submitted that the charge-sheet Memo. No. Vig./02/208(pt.VI) dated 27/30.04.2015 (copy at Annex-I) issued to the undersigned by the Senior Dy. Director General (A) & Chief Vigilance Officer under his own signatures, with the approval of the Secretary, H&FW & DG, ICMR, is illegal and invalid in law, on the following grounds:-

(i) That Sr. Dy. Director General (A) & CVO, ICMR, who has signed and issued the aforesaid charge-sheet Memo. To me, is not my disciplinary authority in accordance with the provisions of the Schedule, annexed to the Bylaws Governing the Conditions of the Service of the

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Employees of the Indian Council of Medical Research. The authorities, which are concerned or have locus standi in the matter of any disciplinary action against me, as per the said Schedule are as under:-”

9. From this, it is evident that. the applicant was very much aware that, the Director General is the DA. Therefore, it is not open to her to contend that the charge memo was issued without the approval of the DA.”

9. Based on the above reasoning, the Tribunal has held that the DG was the DA of the petitioner and was, therefore, competent to issue the charge sheet.

10. We have heard Mr. S.D. Singh, learned Counsel for the petitioner and Mr. Jasbir Bidhuri, learned Counsel for the respondent at length.

11. Mr. Singh has sought to contend that the petitioner’s DA was neither the DG nor the Senior DDG. He submits that the petitioner’s DA was the EC. He further submits that the rules to which paras 6 and 7 make reference were not in existence at the time when the petitioner was appointed as Senior DDG. The 1985 bye-laws of the ICMR, which were in existence at that time, specifically envisaged the EC as being the DA in respect of all posts in the ICMR carrying a scale of more than ₹ 2000/- per month which, consequent to the recommendations of the 5th Central Pay Commission, was revised to ₹ 16500/- per month. It was for this reason, points out Mr. Singh, that the appointment order dated 31 December 1998, appointing the petitioner as Senior DDG, specifically stated that the appointment was made with the approval of the EC, as the petitioner was appointed at a scale of ₹ 18400/- per month.

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12. Mr. Singh submits that the competence of the authority issuing the charge sheet, as the appointing authority of the charged officer, would have to be reckoned on the basis of the position which existed at the time of appointment of the charged officer and not at the time of issuance of charge sheet. If, between the date of appointment of charged officer, and the date of issuance of the charge sheet, the rules had been amended, so that the appointing authority for the post held by the officer had changed, Mr. Singh submits that the legal position is that the higher of the appointing authorities, between the appointing authorities at the time of appointment of the officer and the appointing authorities at the time of issuance of charge sheet would be competent to issue the charge sheet.

13. In support of his submissions, Mr. Singh has placed reliance on the judgments of the Supreme Court in *Om Prakash Gupta Swadheen v. Union of India*¹², *Krishna Kumar v. Divisional Assistant Electrical Engineer*¹³ and the judgments of this Court in *Union of India v. R P Tiwari*¹⁴ and *GNCTD v. Udal Singh*¹⁵.

14. Mr. Singh has also placed reliance on OM dated 13 July 1981 issued by the Department of Personnel and Administrative Reforms (later, the DOPT), which reads thus:

“Disciplinary cases –

need for issuing speaking orders by competent authorities:

¹² (1976) 1 SCC 594

¹³ (1979) 4 SCC 289

¹⁴ 2017 SCC OnLine Del 7917

¹⁵ 2024 SCC OnLine Del 7987

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As is well known and settled by courts, disciplinary proceedings against employees conducted under the provisions of CCS (CCA) Rules, 1965, or under other corresponding rules, are quasi-judicial in nature and as such, it is necessary that orders in such proceedings are issued only by the competent authorities who have been specified as disciplinary/appellate/reviewing authorities under the relevant rules and the orders issued by such authorities should have the attributes of a judicial order. The Supreme Court, the case of Mahavir Prasad Vs. State of U.P. (AIR 1970 SC 1302), observed that recording of reasons in support of a decision by a quasi-judicial authority is obligatory as it ensures that the decision is reached according to law and is not a result of caprice, whim or fancy, or reached on ground of policy or expediency. The necessity to record reasons is greater if the order is subject to appeal.

2. However, instances have come to the notice of this Department where the final orders passed by the competent disciplinary/appellate authorities do not contain the reasons on the basis whereof the decisions communicated by that order were reached. Since such orders may not conform to legal requirements, they may be liable to be held invalid, if challenged in a court of Law. It is, therefore, impressed upon all concerned that the authorities exercising disciplinary powers should issue self-contained speaking and reasoned orders conforming to the aforesaid legal requirements.

3. Instances have also come to notice where, though the decisions in disciplinary/appellate cases were taken by the competent disciplinary/appellate authorities in the files, the final orders were not issued by that authority but only by a lower authority. As mentioned above, the disciplinary/appellate/reviewing authorities exercise quasi-judicial powers and as such, they cannot delegate their powers to their subordinates. It is therefore, essential that the decision taken by such authorities are communicated by the competent authority under their own signatures, and the order so issued should comply with the legal requirements as indicated in the preceding paragraphs. It is only in those cases where the President is the prescribed disciplinary/appellate/reviewing authority and where the Minister concerned has considered the case and given his orders that an order may be authenticated by an officer, who has been authorised to authenticate orders in the name of the President.”

15. Mr. Singh submits that, if the EC was the competent disciplinary authority who could have issued charge sheet to the



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petitioner, the DG was not competent to exercise the power of EC. He has drawn our attention to the constitution of the EC, as set out in Rule 35 of the rules and regulations of the ICMR, viz.

- | | | | |
|-----|---|---|-------------------|
| “1. | Director-General, ICMR | - | Chairman |
| 2. | DGHS | - | Member |
| 3. | F.A, Ministry of Health & F.W. | - | Member |
| 4. | Joint Secretary, Ministry of Health | - | Member |
| 5. | An eminent Scientist | - | Member |
| 6. | A Director of the permanent Institute /Centre of the Council or a Scientist serving in the Council’s Hqrs, Member Office in the grade of Addl.DG/Sr. DDG who is a member of the Governing Body as nominated by the D.G of the Council - | | Member |
| 7. | Financial Adviser, ICMR | - | Member |
| 8. | Add. DG, ICMR | - | Member Secretary” |

16. Mr. Bidhuri, arguing for the respondents, contests the contention that the DG was not competent to issue the charge sheet to the petitioner. He submits that though the Senior DDG had signed the charge sheet, it is clearly stated, therein, that the DG had taken a decision to institute disciplinary proceedings against the petitioner. He also submits that as, on the date of institution of the disciplinary proceedings by way of issuance of the charge sheet, the DG was the competent DA in respect of the post held by the petitioner, no case for quashing the charge sheet on ground that it had been issued by an incompetent officer was made out. He also places reliance on various decisions which hold that Court should not interfere with the disciplinary proceedings at the charge sheet stage. The defences raised by the petitioner, he submits, would be available to her after the proceedings conclude and the DA issues an order.



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17. Mr. Bidhuri also placed reliance on the judgment of the Supreme Court in *Pyare Lal Sharma v. Jammu & Kashmir Industries Ltd*¹⁶ and *Dr. S.L. Agarwal v. General Manager, Hindustan Steel Ltd*¹⁷.

Analysis

18. At the outset, we are not in agreement with the Tribunal in its observation that, as the allegations against the petitioner are serious, they cannot be looked into, and that the Tribunal had necessarily to restrict its examination of the case to the aspect of the competence of the authority issuing the charge sheet. The merits of the charges contained in a charge sheet cannot be regarded, even in a direct challenge to the charge sheet without subjecting oneself to disciplinary proceedings, as no man's land. It is true that the scope of interference by a court with a charge sheet, on the merits of the charges contained therein, even before the inquiry has commenced or when the inquiry is in progress, is extremely limited. It is not, however, completely foreclosed. If the charges against the charged officer, *even if taken as true*, do not make out a case of misconduct, it would be unfair and unjust to subject the officer to disciplinary proceedings. At least to this limited extent, the court is within its jurisdiction in examining the charges contained in a charge sheet, even where it is questioned at the inquiry stage, or even prior thereto.

¹⁶ (1990) 67 Comp Cas 195

¹⁷ (1970) 1 SCC 177



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19. Inasmuch as we are, however, of the opinion that Mr. Singh deserves to succeed in his contention that the charge sheet has been issued by an incompetent authority, the necessity of proceeding to the merits of the actual charges against the petitioner is obviated.

20. As the Tribunal has correctly noted, if the authority issuing the charge sheet was not competent to do so, it makes out a clear case for interference at the charge sheet stage.

21. The charge sheet, though signed by the Senior DDG and CVO, conveys the decision of the DG to institute disciplinary proceedings against the petitioner. We are not with Mr. Singh in his contention that the authority issuing the charge sheet should be treated as a Senior DDG/CVO. Clearly, in the issuance of the charge sheet, it is the DG who has acted as he DA.

22. Mr. Singh, however, submits that the DG was also not competent to issue the charge sheet and that, therefore, the charge sheet was required to be quashed.

23. We are, therefore, required to consider whether the DG was competent to act as a DA in the case of the petitioner.

24. There is a well-recognised distinction between issuance of a charge sheet and imposition of punishment following disciplinary proceedings. We are not concerned, here, with the authority who would be competent to impose or award punishment to the petitioner, assuming the disciplinary proceedings were to culminate against her,



but with the authority who was competent to issue the charge-sheet in the first instance.

25. The charge sheet has been issued under Rule 14 of the CCS (CCA) Rules. The issuance of a charge sheet results in the institution of disciplinary proceedings. Rule 13(2)¹⁸ of the CCS (CCA) Rules empowers a DA, competent under the CCS (CCA) Rules to impose any of the penalties specified in clauses (i) to (v) of Rule 11¹⁹ to *institute disciplinary proceedings* against a government servant even proposing penalties under clauses (v) to (ix) thereof.

¹⁸ (2) A disciplinary authority competent under these rules to impose any of the penalties specified in clauses (i) to (iv) of rule 11 may institute disciplinary proceedings against any Government servant for the imposition of any of the penalties specified in clauses (v) to (ix) of rule 11 notwithstanding that such disciplinary authority is not competent under these rules to impose any of the latter penalties.

¹⁹ 11. **Penalties** – The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Government servant, namely :-

Minor Penalties –

- (i) censure;
- (ii) withholding of his promotion;
- (iii) recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or breach of orders;
- (iiia) reduction to lower stage in the time-scale of pay by one stage for a period not exceeding three years, without cumulative effect and not adversely affecting his pension.
- (iv) withholding of increments of pay;

Major Penalties –

- (v) save as provided for in clause (iii)(a), reduction to a lower stage in the timescale of pay for a specified period, with further directions as to whether or not the Government servant will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay;
- (vi) reduction to lower time-scale of pay, grade, post or Service for a period to be specified in the order of penalty, which shall be a bar to the promotion of the Government servant during such specified period to the time-scale of pay, grade, post or Service from which he was reduced, with direction as to whether or not, on promotion on the expiry of the said specified period –
 - (a) the period of reduction to time-scale of pay, grade, post or service shall operate to postpone future increments of his pay, and if so, to what extent; and
 - (b) the Government servant shall regain his original seniority in the higher time scale of pay, grade, post or service;
- (vii) compulsory retirement;
- (viii) removal from service which shall not be a disqualification for future employment under the Government;
- (ix) dismissal from service which shall ordinarily be a disqualification for future employment under the Government.

Provided that, in every case in which the charge of possession of assets disproportionate to known-sources of income or the charge of acceptance from any person of any gratification, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act is established, the penalty mentioned in clause (viii) or clause (ix) shall be imposed:

Provided further that in any exceptional case and for special reasons recorded in writing, any other



26. Rule 11 identifies the disciplinary authorities who may levy the penalties stipulated in Rule 11. By virtue of Rule 13(2), these disciplinary authorities would also be competent to institute the disciplinary proceedings by issuing a charge sheet.

27. Rule 12(2)(b)²⁰ empowers “the authorities specified in this behalf by a general or a special order of the President or, where no such order has been made, by the appointing authority or the authority specified in its schedule in this behalf” to impose any of the penalties envisaged in Rule 11 on any person appointed to a central civil post. Inasmuch as there are no authorities specified in the Schedule to the CCS (CCA) Rules in respect of the petitioner, it would be the appointing authority of the petitioner who would be competent to issue the charge sheet.

28. “Appointing authority” is defined in Rule 2(a)²¹ of the CCS (CCA) Rules. Rule 2(a) envisages the appointing authority as being

penalty may be imposed.

²⁰ 12. **Disciplinary authorities –**

(2) Without prejudice to the provisions of sub-rule (1), but subject to the provisions of sub-rule (4), any of the penalties specified in Rule 11 may be imposed on –

(b) a person appointed to a Central Civil Post included in the General Central Service, by the authority specified in this behalf by a general or special order of the President or, where no such order has been made, by the appointing authority or the authority specified in the Schedule in this behalf.

²¹ (a) “appointing authority”, in relation to a Government servant, means –

- (i) the authority empowered to make appointments to the Service of which the Government servant is for the time being a member or to the grade of the Service in which the Government servant is for the time being included, or
- (ii) the authority empowered to make appointments to the post which the Government servant for the time being holds, or
- (iii) the authority which appointed the Government servant to such Service, grade or post, as the case may be, or
- (iv) where the Government servant having been a permanent member of any other Service or having substantively held any other permanent post, has been in continuous employment of the Government, the authority which appointed him to that Service or to any grade in that Service or to that post,

whichever authority is the highest authority;

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the authority empowered to make appointments to the post which the government servant for the time being holds, or the authority which appointed the government servant to such post, whichever authority is higher.

29. The decision of the Supreme Court in ***Om Prakash Gupta Swadheen***, on which Mr. Singh relies, dealt with termination of an officer under Rule 5(1)(a) of the Central Civil Services (Temporary Service) Rules, 1985²². Rule 5(1)(a) of the Temporary Service Rules empowered the “appointing authority” to issue an order of termination thereunder. Rule 2(a) of the Temporary Service Rules defined “appointing authority” to be the “appointing authority” under the CCS (CCA) Rules. Thus, Rule 2(a) of the CCS (CCA) Rules became directly applicable in ***Om Prakash Gupta Swadheen***. *The Supreme Court, in the said decision, held that the appointing authority would be higher of the authorities between the authority who appointed the officer concerned and the competent appointing authority at the time of issuance of the termination order.*

30. It is true that we are not concerned, here, with the competence of the authority who could punish the petitioner, assuming the disciplinary proceedings were to culminate in punishment. We are concerned with the authority who would be competent to institute the disciplinary proceedings.

31. The CCS (CCA) Rules, however, equate these authorities. Rule 13 deals with the authority who could institute disciplinary



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proceedings. Sub-rule (2) thereof clearly states that the institution of disciplinary proceedings has to be by the DA competent, under the CCS (CCA) Rules, to impose penalties. There is, therefore, no distinction, in the CCS (CCA) Rules, between the authority who was competent to award punishment or impose penalties, and the authority who could institute the disciplinary proceedings which culminated in the order of punishment or penalty.

32. This is also reflected in Rule 14(3) and (4), which require the DA to hold the enquiry against the charged officer and to “deliver or cause to be delivered to the Government servant copy of the articles of charge”.

33. Keeping the discussion regarding *Om Prakash Gupta Swadheen* on hold, for the present, it becomes necessary, at this juncture, to refer to a recent judgment of the Supreme Court in *State of Jharkhand v. Rukma Kesh Mishra*²³.

34. The appeal before the Supreme Court, in *Rukma Kesh Mishra*, emanated from the decision of the High Court of Jharkhand to quash the disciplinary proceedings instituted against the respondent on the ground that the charge-sheet had not been approved by the Chief Minister of Jharkhand, who was the competent DA. Article 311(1)²⁴ was invoked, both by the learned Single Judge as well as by the

²³ 2025 SCC OnLine SC 676

²⁴ 311. Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State. –

(1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.



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Division Bench of the High Court, to hold that the charge-sheet had not been issued or approved by the competent authority.

35. The Supreme Court held that the reliance, by the High Court, on Article 311(1), to be misguided. The Supreme Court observed that the respondent before it was governed by Rule 55 of the Civil Services (Classification, Control and Appeal) Rules, 1930, which clearly required the “appointing authority” to issue the charge-sheet to the charged officer. This provision, it was noticed, was in contradistinction to Article 311(1), which required dismissal, removal or reduction in rank to be by an authority who was not “subordinate to that *by which (the charged officer) was appointed*”. The Supreme Court observed that there was a distinction between the expression “appointing authority” and the authority “by which” the charged officer “was appointed”. The issuance of the charge-sheet by the authority who was, at that time, the appointing authority for the post held by the charged officer was, therefore, held to be valid, even if the authority was subordinate to the authority who had *in fact appointed* the respondent.

36. *Rukma Kesh Mishra*, however, did not involve any provision akin to Rule 13(2) or sub-Rule (3) or (4) of Rule 14 of the CCS (CCA) Rules, as are available in the case before us. These provisions, as we have noticed, required the DA to institute the disciplinary proceedings by drawing up, or by causing to be drawn up, the charge-sheet and having the charge-sheet served on the charged officer. Rule 12 requires the DA not to be subordinate to the appointing authority, and the definition of “appointing authority” in Rule 2(a) of the CCS



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(CCA) Rules envisages the appointing authority *as being the higher, between the authority who appointed the charged officer and the authority who, at the time of issuance of the charge-sheet, was competent to appoint persons holding the post of the charged officer.* The interpretation of Rule 2(a) in ***Om Prakash Gupta Swadheen***, which holds that if there is a difference between the appointing authority at the time of appointment of the petitioner and the “appointing authority” as defined in the Rules at the time of issuance of the charge sheet, the higher of the two authorities would be competent to issue the charge sheet would, therefore, directly be applicable.

37. ***Rukma Kesh Mishra*** did, however, also advert to Rule 14(3) of the CCS (CCA) Rules. Para 36 of the report, which deals with Rule 14(3), read thus:

“36. Since invocation of the provisions in Discipline and Appeal Rules similar to Rule 14(3) of the 1965 Rules or Rule 17(3) of the 2016 Rules and citing failure to adhere to the same to invalidate orders terminating services of officers/employees is not too infrequent, we consider it proper to briefly touch upon the requirement thereof. The Disciplinary Authority is mandated by the law to ‘draw up’ or ‘cause to be drawn up’ the substance of the imputations of misconduct or misbehavior as a definite and distinct article of charge together with the statement of such imputations. The phrases ‘draw up’ and ‘cause to be drawn up’ do have different meanings in the context of disciplinary proceedings, though both relate to drawing up of a charge-sheet. By ‘draw up’, what is express is that the Disciplinary Authority itself is responsible for preparing the substance of imputation and the statement of allegations in support thereof, whereas ‘cause to be drawn up’ would enable the Disciplinary Authority to instruct or direct someone else to prepare the substance and statement. The effect of it is that the Disciplinary Authority itself may not prepare the document but rather delegate the task to someone else. If the delegation is proved to have been made in favour of an authority holding an office superior to that of the officer/employee proposed



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to be proceeded against, nothing much is required to be done and the courts ought to exercise restraint.”

38. **Rukma Kesh Mishra**, therefore, notes that Rule 14(3) of the CCS (CCA) Rules does not require the charge-sheet, inexorably, to be drawn up by the DA; the DA could also *cause the charge-sheet to be drawn up* by another authority, as his delegatee.

39. That distinction would, however, not affect the outcome of the present dispute, or the applicability, to the facts before us, of the decision in **Om Prakash Gupta Swadheen**, as the DA in the case of the petitioner, by operation of Rule 2(a) of the CCS (CCA) Rules read with the decision in **Om Prakash Gupta Swadheen**, was the EC, and it is nobody’s case that the EC had delegated the power to institute disciplinary proceedings, or issue the charge-sheet to the petitioner, to the DG. The DG, in issuing the charge-sheet, could not, therefore, be said to be acting as a delegatee of the EC. Para 36 of **Rukma Kesh Mishra** would not, therefore, salvage the charge-sheet which, clearly, has not been issued by the DA or by his delegatee.

40. **Pyare Lal Sharma** and **Dr S.L. Agarwal**, on which Mr Bidhuri relies, are clearly distinguishable. In **Pyare Lal Sharma**, the board of directors, who had appointed the appellant (before the Supreme Court) had delegated its power as appointing authority to the managing director, who thereafter instituted disciplinary proceedings. **Dr S.L. Agarwal** did not even obliquely address this issue.

41. The issuance of the charge-sheet to the petitioner was, therefore, in violation of Rule 13(2) read with sub-Rules (2) and (3) of



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Rule 14 and Rule 2(a) of the CCS (CCA) Rules.

42. We, therefore, are in agreement with Mr. Singh in his submission that the disciplinary proceedings stood vitiated *ab initio*.

43. Inasmuch as the very issuance of the charge-sheet, in the case before us, was by an incompetent authority, we cannot relegate the proceedings to any stage of the disciplinary proceedings, as they stand vitiated from their very initiation.

44. The OA filed by the petitioner was, therefore, entitled to succeed. We are constrained, therefore, to hold that the Tribunal was in error in dismissing the OA.

Conclusion

45. The writ petition, as also OA 3428/2015, therefore, succeed and are allowed. The charge-sheet dated 27/30 April 2015 would stand quashed and set aside.

46. There shall be no orders as to costs.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

AUGUST 04, 2026/dsn/aky

Signature Not Verified

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