(2025) 05 CAT CK 0316

In the Central Administrative Tribunal, Principal Bench, New Delhi

Case No : Original Application No. 1706 Of 2025

Pramod Kumar — APPELLANT

Vs

ICMR, Through Its Director General V. Ramalingaswami Bhawan Ansari Nagar East, New Delhi, Delhi 110029 & Ors. — RESPONDENT

Date of Decision : 30-05-2025

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19
Central Civil Services (Classification, Control And Appeal) Rules, 1965 — Rule 14

Citation : (2025) 05 CAT CK 0316

Hon'ble Judges : R.N. Singh, Member (J);B. Anand, Member (A)

Bench : Division Bench

Advocate : M.C. Dhingra, Gaurav Dhingra, Shashwat Sharma

Final Decision : Dismissed

Judgement

R.N. Singh, Member (J)

1. By way of the present Original Application (OA) filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following reliefs:

“(a) to quash the Office Memorandum dated 09.09.2024 (Annexure-A/1) passed by the respondent No. 1, whereby the inquiry has been initiated against the applicant herein; and may also

(b) pass such other and further orders which this Hon’ble Tribunal may deem fit and proper in the interest of justice.”

2. Vide the impugned Office Memorandum dated 09.09.2024, an inquiry is proposed to be held against the applicant under the provisions of Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The statement of Articles of charge framed against the applicant read as under:

Annexure-II

“Statement of articles of charge framed against Shri Pramod Kumar, the then Accounts Officer, ICMR-National Institute of Research in Tribal Health(NIRTH) (presently posted at ICMR-NICPR, NOIDA as Sr. ACO)

Article-I

That the said Shri Pramod Kumar, while working as Accounts Officer, in the ICMR-National Institute of Research in Tribal Health (NIRTH), Jabalpur, during 2017-2018, indulged in misappropriation of government/public fund. During the financial year (FY) 2017-18, Dr. Aparup Das, Director, NIRTH, Jabalpur, had an income tax liability of Rs. 2,29, 770/-. However, only Rs. 98,410/- was deducted as TDS, from his salary as advance tax, leaving a balance of Rs. 1,31,360/- (inclusive of a Rs. 9,170/- penalty). To address this, Shri Pramod Kumar, the then Accounts Officer proposed settling the income tax dues of Rs. 1,31,360.00 from the ICMR-NIRTH public fund account and to recover the same from the salary of Dr. Aparup Das, in seven instalments, between August 2018 and February 2019.

Shri Pramod Kumar, being in the financial cadre of ICMR, as ACO in pay level-10 of Govt pay scale and being well aware of the consequences of misusing the government funds, moved a proposal to pay Dr. Aparup Das’s personal income tax due, to be paid from the government funds and to facilitate him to reply it in 7 (seven) easy instalments.

By these acts of misconducts and misdeeds, Shri Pramod Kumar has failed to maintain absolute integrity, devotion to duty and has done sufficient acts of commission and omission amount to misconduct, which are detrimental to an unbecoming of a ICMR Officer, holding senior position in Finance.”

3. It is apparent from the impugned memorandum dated 09.09.2024 (Annexure A-1) that vide paragraph 3, the applicant has been advised that he should specifically admit or deny each article of charge and vide paragraph 2 thereof, he has been directed to submit a written statement of defence within ten days of receipt of the said memorandum. Before issuing the impugned memorandum, the respondents have issued a show cause notice dated 02.04.2024 (Annexure A-5) and accorded him fifteen days’ time to explain the reasons as to why administrative action should not be initiated against him. In response thereto, the applicant had submitted his reply (page 57-A) wherein he has submitted that the beneficiary is the Director and the mistake is by the DDO and the matter does not relate to them. However, if the competent authority feels an error at the end of the applicant, to forgive him. It is admitted fact that pursuant to the impugned memorandum, the applicant has not filed any reply. However, he has rushed to this Tribunal by way of the present OA. Learned counsel for the applicant by referring to the explanation given by the applicant in response to the aforesaid show cause notice dated 02.04.2024 and report of the Fact Finding Committee (Annexure A-4) submits that the beneficiary of the alleged transaction is not the applicant in any manner and whatever the applicant did, he

did so on the oral instructions of the Director/DDO. His endeavour has been to say that the indications in the light of the report of the Fact Finding Committee or the explanation furnished by the applicant did not indicate any misconduct and, therefore, the impugned memorandum deserves to be quashed.

4. Learned counsel for the applicant has not disputed that the impugned memorandum has been issued by the competent disciplinary authority and the respondents are yet to complete the departmental inquiry. It is also not the case of the applicant that the impugned memorandum has been issued on malafide grounds.

5. In this view of the matter, the issue arises as to whether this Tribunal while exercising the power of judicial review is required to go into the correctness of the allegations. Such issue is no more res integra. In support, we may refer to the judgment of the Hon'ble Apex Court in (i) Union of India & Ors. vs. Upendra Singh reported in (1994) 3 SCC 357 (ii) Union of India & Anr. vs. Ashok Kacker reported in 1995 Supp (1) SCC 180 (iii) Dy. Inspector General of Police vs. K. S. Swaminathan reported in (1996) 11 SCC 498 and (iv) Union of India & Anr. vs. Kunisetty Satyanarayana reported in (2006) 12 SCC 28.

6. In Kunisetty Satyanarayana (supra), the Hon'ble Apex Court has ruled in paragraphs 13 to 16 as under:

"13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge-sheet or show-cause notice vide Executive Engineer, Bihar State Housing Board v. Ramesh Kumar Singh [(1996) 1 SCC 327 : JT (1995) 8 SC 331], Special Director v. Mohd. Ghulam Ghouse [(2004) 3 SCC 440 : 2004 SCC (Cri) 826 : AIR 2004 SC 1467] , Ulagappa v.Divisional Commr.,Mysore [(2001) 10 SCC 639], State of U.P. v. Brahm Datt Sharma [(1987) 2 SCC 179 : (1987) 3 ATC 319 : AIR 1987 SC 943] , etc.

14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ petition lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of anyone. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge-sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter."

7. As noted hereinabove, the impugned memorandum has been issued by a competent authority, the same is not even alleged to be result of malafide nor the same has been issued in violation of any mandatory statutory provisions and thus, the case in hand does not fall under the category of rare and exceptional circumstances in which the Tribunal is required to interfere into.

8. Accordingly, the OA is dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs.

9. Before parting, we may clarify that we have not gone into the correctness of the allegations against the applicant.