(2025) 11 MEG CK 1812

In the Meghalaya High Court

Case No : Writ Petition (C). No. 374 Of 2025

Rakesh Chopra APPELLANT

Vs

Union Of India & Ors RESPONDENT

Date of Decision : 24-11-2025

Acts Referred:

Citation : (2025) 11 MEG CK 1812

Hon'ble Judges : H. S. Thangkhiew, J

Bench : Single Bench

Advocate : N.K. Gupta, M. Surong, M.S. Malsom, Dr. N.Mozika, M. Myrchiang

Final Decision : Allowed

Judgement

H.S. Thangkhiew, J

1. The brief facts of the case are that the petitioner who is currently serving as Superintending Engineer (CIV) in Border Roads Organisation, being aggrieved with the chargesheet dated 22-04-2025, issued by the Under Secretary to the Government of India, Ministry of Defence, is before this Court assailing the same on the ground that the said chargesheet is legally invalid, inasmuch as, the stated charge is that he had "failed to submit the inquiry report" for 3(three) departmental inquiries when infact, the said reports had already been submitted by the petitioner.

2. Mr. N.K.Gupta, learned counsel for the petitioner, submits that the action of the respondents in issuing the impugned chargesheet dated 22-04-2025, is without due cause, in violation of laid down rules and procedure and has been made deliberately to victimize and harass the petitioner and more importantly, to block his promotion which is due very soon. The single charge imputed against the petitioner he submits, is of non-submission of the inquiry reports with regard to 3(three) disciplinary inquiries, wherein the petitioner was appointed as Inquiry Officer. This charge, he contends, is unfounded, inasmuch as, from a bare perusal of the records i.e., two letters dated 18-06-2024 and one letter dated

20-06-2024, which are annexed to the writ petition, it can clearly be seen that the inquiry reports had already been submitted 10(ten) months before issuance of the chargesheet. This fact, he submits, is not refuted by the respondents as in the counter affidavit itself, it has been stated that the inquiry reports have been submitted. The sole charge alleged against the petitioner therefore, he contends, is non-existent, untenable and is null and void, inasmuch as, the disciplinary authority after receipt of the inquiry reports, have also passed final orders on the same in September, 2024. The charge therefore, he submits, being a conscious and deliberate fabrication to initiate a proceeding where no cause of action exists, the impugned chargesheet is liable to be set aside.

3. Learned counsel has further submitted that the impugned chargesheet is also liable to be quashed for violation of applicable rules, as the disciplinary authority failed to take first stage CVC advice before issuing the impugned chargesheet as mandated by CVC Office Order No. 23/04/04 dated 13-04-2004, as amended by CVC Office Order No. 74/12/05 dated 21-12-2005, due to the presence of a vigilance angle. The reason, he submits, is because as per the Office Order No. 74/12/05, any undue delay in disposal of a case would reinforce a conclusion as to the presence of a vigilance angle. Further, it is submitted as per the SOP, it had been made mandatory to obtain first stage advice from the CVC to the Ministry of Defence, whereever allegation of doubtful integrity is raised which however, was not done in the present case, nor a preliminary investigation conducted as per the same SOP. The impugned chargesheet it is contended, has also been issued without approval from the competent disciplinary authority which is the President of India through the Minister of Defence, for cases against Group A Officers such as the petitioner, as per the CCS (CCA) Rules, 1965, and no materials had been brought on record to show that such approval was sought for, or granted prior to the issuance of the chargesheet dated 22-04-2025. The learned counsel then submits that the impugned chargesheet had been issued only to victimize the petitioner with malafide intent, as the petitioner has placed on record a series of events which unfolded immediately after he had made a whistle blower complaint in March 2022. Learned counsel has then gone on to illustrate the events of victimization.

4. The fact that the chargesheet is incompetent, it is submitted, is beyond the shadow of any doubt, inasmuch as, the respondents were constrained to admit the defective nature of the chargesheet before this Court, and had even prayed to be allowed to issue a Corrigendum to this effect, which is impermissible. Learned counsel submits that it is settled law that a Corrigendum cannot be issued to change the nature of the charge itself, as such it clearly shows that the proposed Corrigendum, is nothing but a belated attempt by the disciplinary authorities, to fundamentally change the nature of the charge itself from a factually impossible one of “non-submission till date” to a different unknown charge. Learned counsel in support of his submissions, has placed reliance on the following judgments:

(i) Surath Chandra Chakrabarthy Vs. State of West Bengal (1970) 3 SCC 548, paras 5, 6 and 7.

(ii) State of Punjab Vs. V.K.Khanna (2001) 2 SCC 330, paras 28 and 37.

5. On other aspects, it has been submitted that the respondents inspite of making pointed submissions before this Court, as to the fact that the impugned chargesheet was not worded in a proper and an appropriate manner, had however, issued orders on 21-10-2025, appointing an Inquiry Authority, namely one Shri. Subhash Chandra Loomiya, SE (CIV), thereby indicating the commencement of the inquiry based on the impugned chargesheet. The said appointment order he submits, was never communicated, or served on the petitioner until 18-11-2025, when the hearing had already been concluded which he contends, constitutes a fraud on the Court. The learned counsel then concludes his arguments by praying that the impugned chargesheet and a subsequent Corrigendum dated 05-08-2025, which was issued after filing of the present writ petition be quashed and set aside.

6. Dr. N.Mozika, learned DSGI assisted by Ms. M.Myrchiang, learned counsel on behalf of the respondents in his short reply, has submitted that to the Memorandum of Charge dated 22-04-2025, the petitioner had already submitted his reply on 09-05-2025 and without waiting for any response, had filed the instant writ petition on 26-08-2025, and as such, on this ground the writ petition is premature and misconceived. With respect to the charges contained in the chargesheet, the learned DSGI has referred to the counter affidavit filed by the respondents, to contend that the Memorandum of Charge revolves around the delayed submission of the inquiry reports and not non-submission thereof, and there being no vigilance angle or financial integrity involved, CVC approval is not mandatory.

7. The learned DSGI then submits that the writ petition is not entertainable at this stage, inasmuch as, a Memorandum of Charge is only an opportunity to show cause and it does not give rise to any cause of action, as it does not amount to an adverse order which affects the rights of any party. To support this contention that a mere chargesheet does not give rise to any cause of action, the learned DSGI has placed reliance on the following two judgments:

(i) Union of India and Anr. vs. Kunisetty Satyanarayana, (2006) 12 SCC 28, paragraphs 12-16.

(ii) Secretary, Ministry of Defence and Ors. vs. Prabhash Chandra Mirdha, (2012) 11 SCC 565, paragraphs 8 and 12.

8. On hearing the learned counsel for the parties, in the considered view of this Court, the entire issue revolves only around the Memorandum of Charge, the Articles thereof, and the Statement of Imputation in support of the charges framed for the conduct of the disciplinary proceedings against the petitioner. For the sake of convenience, the Articles of Charge framed against the petitioner are

reproduced hereinbelow:

"No.5(10)/2023-D(Lab)

Government of India

Ministry of Defence

D(Lab)

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Sena Bhawan, New Delhi – 110105

Dated the 22nd April, 2025

MEMORANDUM

The President proposes to hold an inquiry against Shri Rakesh Chopra, SE (Civ) (GO-2434Y) posted to R&D Shillong, under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehavior in respect of which the enquiry is proposed to be held is set out in the enclosed statement of articles of Charge (Annexure-I). A statement of the imputations of misconduct or misbehavior in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure- III & IV).

2. Shri Rakesh Chopra, SE (Civ) (GO-2434Y), is directed to submit within 15 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each Article of charge.

4. Shri Rakesh Chopra, SE (Civ) (GO-2434Y) is further informed that if he does not submit his written statement of defence on or before the date specified in Para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CSS (CC&A) Rules, 1965, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex-parte

5. Attention of Shri Rakesh Chopra, SE (Civ)(GO2434Y) is invited to Rule 20 of the CSS (Conduct) Rules 1964, under which no Govt. servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that he is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the

CSS (Conduct) Rules, 1964.

6. The receipt of the Memorandum may be acknowledged.

(By Order and in the name of President)

Sd/-

(Gopal Mehra)

Under Secretary to the Government of India.

To,

Shri Rakesh Chopra, SE(Civ)(GO-2434Y) of R&D Shillong.

Copy to:- DGBR, Seema Sadak Bhawan, Delhi Cantt."

"STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI RAKESH CHOPRA, SE (CIV)(GO-24334Y)

ARTICLE –I

That Shri Rakesh Chopra, SE (Civ) (GO-2434Y) of R&D Shillong, while serving with HQ CE (P) Beacon, was appointed as Inquiring Authority in a composite case by Chief Engineer (Project) Beacon (Prescribed Disciplinary Authority) to inquire into the charges levelled against three delinquent officials i.e., GS-19479 1N JE (Civ) Kumbhar Ganesh Bhagwan of 209 PWP, GS-195987N JE (Civ) NS Slathia and GS-194792W JE (Civ) Khemshetty Satish of 1535RMPL/109 RCC/32 TF of (Project) Beacon vide Order bearing No. 10016/Disc/Disc II/Kumbhar GB/11/RC dated 20.05.2021, 10016/NS Slathia/10/E1E dated 22.05.2021 and 100016/Disc/ Khemshetty Satish/08/E1E dated 27.05.2021 respectively.

2. As per time prescribed under Sub-Rule 24 of Rule 14 of CCS (CC&A) Rules, 1965, as amended vide Government of India, Ministry of Personnel, Public Grievance and Pension, DOP&T Notification, published in the Gazette of India vide G.S.R 548E dated 02.06.2017, Departmental Enquiry Proceedings were required to be completed and submitted within a stipulated period of six months from the date of appointment order received by the IO and an additional time not exceeding six months for completion of the Inquiry, at a time.

3. Although Shri. Rakesh Chopra, SE (Civ)(Go2434Y) vide his three letters bearing No. 1002/Disc/Kumbhar GB/Gen/59/RC, 1002/Disc/NS Slathia/36/RC, and 1002/Disc/ Khemshetty/39/RC all dated 29.06.2022 had confirmed that written brief of all the three Departmental Enquiries were submitted by the Presenting Officer Shri YC Tiwari, AE(Civ) on 23.06.2022, however, Shri Rakesh Chopra, SE (Civ) (GO-2434Y) has failed to submit the Inquiry Reports even after repeated reminders issued to him by Chief Engineer (P) Beacon (Disciplinary Authority) from 02.07.2022 to till date (Ref Sl No. 22 to 46 of AnnexureIII) despite multiple time extensions granted to him

(Emphasis supplied)

9. A perusal of the Articles of Charge, especially para 3 thereof, categorically states that the petitioner has failed to submit the inquiry reports even after repeated reminders issued to him by the disciplinary authority. Thus, on a plain reading of the Articles of Charge, the main charge for which disciplinary proceedings were contemplated, was on the failure of the petitioner to submit the inquiry reports even after repeated reminders had been issued to him by the disciplinary authority. Further, at paragraph 7 & 8 of the Statement of Imputation in support of the Articles of Charge which is extracted below reads as follows:

"STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN SUPPORT OF THE ARTICLES OF CHARGE FRAMED AGAINST SHRI RAKESH CHOPRA, SE (CIV) (GO2434Y)

ARTICLE-I

7. The above three DEs are part of same composite case arising out a CBI enquiry wherein DEs under Rule 14 of CCS (CC&A) Rules, 1965 was recommended/advised by Central Vigilance Commission against 11 GREF officials. Out of 11 DEs, eight DEs have already been completed by the respective Inquiring Authorities and submitted to the Disciplinary Authorities for follow up action, whereas three DEs are yet to be completed by Shri Rakesh Chopra, SE (Civ) even after expiry of more than two years.

8. Shri Rakesh Chopra, SE (Civ) (GO-2434Y) apparently and deliberately delaying to hinder the disciplinary proceedings, which has not only resulted in delay in finalisation of the cases, but also adversely affecting the functional structure of the department. Thus, he has failed to maintain absolute integrity, devotion to duty and acted in a manner which is unbecoming of a Government Servant in the performance of his official duties, thereby contravening the provisions contained in CCS (Conduct) Rules, 1964."

(Emphasis Supplied)

Here also, it is seen at para 7, it is stated that the 3(three) Departmental Inquiries conducted by the petitioner were yet to be completed even after the expiry of more than 2(two) years, and at paragraph 8 thereof, it is recorded that the petitioner has failed to maintain absolute integrity, devotion to duty and acted in a manner which is unbecoming of a government servant.

10. Thus, from the illustration made hereinabove, it is evident that the charges framed against the petitioner was that of the failure to complete and submit the 3(three) inquiry reports. The 3(three) inquiry reports however, as submitted by the petitioner and not denied by the respondents, had been submitted by the petitioner on 18-06-2024 and 20-06-2024, the covering letters thereof have been annexed to the writ petition. Further, on the aspect of receipt of CVC advice when a vigilance angle is involved, though it has been stated on affidavit by the respondents that the case of the petitioner does not fall under vigilance, and as

such, advice of CVC is not warranted, however, the Statement of Imputation at Para 8 speaks otherwise, inasmuch as, the nature of the charge contained therein would necessarily call for first stage advice from the CVC. In this context, reference can be made to the Office Order No. 74/12/05 dated 21-12-2005, wherein, such charge as contained in para 8 of the Statement of Imputation quoted above calls for advice from the CVC. The Office Order No. 74/12/05 dated 21-12-2005, is reproduced hereinbelow:

"No. 004/VGL/18

Government of India

Central Vigilance Commission

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Satarkata Bhawan, Block-A

GPO Complex, INA

New Delhi-110023

Dated the 21st December, 2005

Office Order No. 74/12/05

Sub:- Vigilance angle – definition of (partial

modification regarding)

In partial modification to Commission's Office Order No. 23/4/04 issued vide No. 004/VGL/18 dated 13.4.04 on definition of vigilance angle, the following is added at the end of para 2 for the purpose of determination of vigilance angle as para 2 (b)

"Any undue/unjustified delay in the disposal of a case, perceived after considering all relevant factors, would reinforce a conclusion as to the presence of vigilance angle in a case". The existing para 2 will be marked as para 2 (a)

2. CVO may bring this to the notice of all concerned.

Sd/-

(Anjana Dube)

Deputy Secretary

All Chief Vigilance Officers

Copy to :-

1. Director CBI, New Delhi.

2. AVD-III, Deptt of Personnel & Training, North

Block, New Delhi.”

11. In the case of Surath Chandra Chakrabarty (supra), the case cited by the petitioner, it has been held that it is not permissible to hold an inquiry on a vague charge and that the grounds on which action is proposed, would have to be in the form of definite charges which have to be duly communicated to the delinquent, or to the person charged. Though normally no writ would lie against a chargesheet or show cause notice, and a chargesheet is in this regard, is not liable to be quashed, as it does not adversely affect the rights of a delinquent employee and does not give rise to any cause of action, the instant case however, in the considered view of this Court has fallen into one of those rare exceptions calling for the exercise of discretionary jurisdiction of this Court in view of the aforesaid circumstances.

12. The above observation is made in view of the facts that inspite of the submission of the 3(three) inquiry reports, the impugned chargesheet had been issued 10(ten) months thereafter, based on the definite charge of non-submission of the same. The incompetency of the chargesheet in this respect, though sought to be repaired in hindsight by the respondents, to alter the same to one of delay by means of a Corrigendum, will also not cure the basic defect and would amount to an irregularity in the due process which cannot be allowed or condoned. Added to this, is the fact that the charges and statements in support thereto, clearly show the presence of a vigilance angle for which as mandated no CVC advice was sought. The reply to the show cause therefore, if indeed already filed by the petitioner before the disciplinary authority on the charges so framed, is redundant on the stated facts and circumstances of the case.

13. Accordingly, in view of the discussions made hereinabove, the impugned chargesheet dated 22-04-2025 and Corrigendum dated 05-08-2025, being visited by incurable defects, the same are hereby set aside and quashed leaving the respondents to take any further action strictly in accordance with law.

14. The writ petition is allowed and disposed of, however, with no order as to costs.