

(2022) 04 CHH CK 0017
In the Chhattisgarh High Court
Case No : Writ Appeal No. 188 Of 2021

Sanjay Singh

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 07-04-2022

Acts Referred:

Constitution Of India, 1950 — Article 226
Chhattisgarh Tourism Board Recruitment And Promotion Rules, 2015 — Rule 43(1),
43(8), 43(11), 43(12), 43(16), 44, 51
Chhattisgarh Tourism Board's Service Bye-laws, 2002 — Section 33, 34
Chhattisgarh State Store Purchase Rules, 2002 — Rule 8
Chhattisgarh Lok Aayog Adhiniyam, 2002 — Section 7(3)(a), 7(3)(b), 11(1)

Citation : (2022) 04 CHH CK 0017

Hon'ble Judges : Arup Kumar Goswami, CJ; N.K. Chandravanshi, J

Bench : Division Bench

Advocate : Manish Nigam, Meena Shastri, Ashish Shrivastava, Aman Pandey

Final Decision : Allowed

Judgement

1. Heard Mr. Manish Nigam, learned counsel for the appellant; Mrs. Meena Shastri, learned Additional Advocate General, appearing for respondent No.1 and Mr. Ashish Shrivastava, learned senior counsel, appearing for respondents No.2 & 3.

2. This writ appeal is presented against an order dated 16.02.2021 passed by the learned Single Judge in Writ Petition (S) No.707 of 2021, dismissing the writ petition and providing that in the event, if the petitioner submits a reply to the charge-sheet, the same shall be taken into consideration by the disciplinary authority, and thereafter, proceed in accordance with the relevant Rules.

3. By filing the writ petition under Article 226 of the Constitution of India, the petitioner had called into question an order dated 11.11.2020 by which the petitioner was suspended, a charge-sheet dated 23.03.2020 and an order dated 18.04.2020, whereby, an Enquiry Officer and a Presenting Officer were appointed

for the purpose of conducting departmental proceeding against the petitioner.

4. The case of the petitioner, in short, as presented in the writ petition, inter alia, is that the petitioner is holding a substantive post of General Manager in the Chhattisgarh Tourism Board (for short, 'the Board'). In the year 2007-2008, certain irregularities were found, while conducting an audit by the Accountant General over the affairs of Board with respect to purchases made and maintenance of stock register. After a lapse of seven years by an order dated 02.12.2015, the State Government had appointed an Enquiry Officer to conduct an enquiry. Though a report was submitted by the Enquiry Officer on 24.04.2018 pointing out certain irregularities, no adverse comments and/or finding of guilt was recorded against the petitioner. In such enquiry, no opportunity of hearing was also granted to the petitioner. Much later, a show-cause notice dated 12.06.2019 was issued to the petitioner, to which he replied by a letter dated 24.06.2019. By an order dated 18.04.2020, the respondent No. 1, without any authority of law and without jurisdiction, appointed a Departmental Enquiry Officer as the Enquiry Officer and an Assistant Director (Finance) of the Board as the Presenting Officer to conduct a departmental enquiry against the petitioner. The petitioner being on earned leave at that point of time, the said order was served with the charge-sheet dated 23.12.2020. The petitioner was suspended by an order dated 11.11.2020 by respondent No. 3, on account of institution of the departmental enquiry by the State Government.

5. It is pleaded that charges levelled against the petitioner are vague and baseless and the charge-sheet has been issued to the petitioner, after unexplained and unwarranted delay of more than 12 years, causing prejudice to the petitioner. The respondent No. 2, i.e., the Managing Director of the the Board, has no authority to place the petitioner under suspension as it is the Board, being the Appointing Authority, is vested with such powers under Rule 51 of the Chhattisgarh Tourism Board Recruitment and Promotion Rules, 2015, (for short, 'the Rules of 2015'). In the same vein, order dated 18.04.2020 issued by the respondent No. 1 is assailed contending that it is not the Disciplinary and / or the Appointing Authority.

6. It appears that the writ petition was disposed of on the first day of listing before the Court. The learned Single at paragraphs-8 to 11 observed as follows :

"8. Having heard the contentions put forth on either side and on perusal of record, some of the admitted factual positions as it stands from the pleadings of the writ petition is that the petitioner undisputedly was working as a Deputy General Manager/Senior Tourism Officer during the period 2007-08. In the year 2007-08 itself there was an audit objection in respect of certain financial irregularities in respect of various purchases that were made in the Department. It also reflected that during the said period of time, the petitioner was Incharge of the purchases to be made by the Department.

9. Further, from the pleadings it also reflects that the matter in respect of the

financial irregularities was also complained to the office of the Lok Ayog, State of Chhattisgarh. Who again in the year 2015 had ordered for an inquiry and a report was also submitted to the State Government clearly giving a finding that there appears to have been financial irregularities committed in the process of the purchases made by the Department and the Lok Ayog has given specific findings against the petitioner of being involved in the financial irregularities. Similarly, the respondents had also constituted a Committee to look into the aforesaid complaint and the Committee also as early as in the year 2018 given an inquiry report, wherein again it has been found that the allegations and the charges leveled were found to be true.

10. Based upon all this subsequent developments, the respondent-State at the first instance vide order dated 18.04.2020 (Annexure P/1) decided to hold a departmental enquiry against the petitioner. Subsequently, the petitioner was placed under suspension on 11.11.2020 and thereafter a charge-sheet has been also issued on 23.12.2020 by the respondents No.2 & 3.

11. Thus, from the admitted factual position as it reflects in the preceding paragraphs, what would be clear from the pleadings is that it is not a case where suddenly the petitioner has been issued with a charge-sheet after a period of 12-13 years. Pleadings would show that in fact there was an audit objection made at the first instance in the year 2007-08 itself, followed by certain complaints which were lodged before the office of the Lok Ayog, which too was inquired into by the office of the Lok Ayog and thereafter another Committee was constituted by the Department, which too has inquired into the transaction for the period 2007-08 and both these forums have given a clear finding of there being gross financial irregularity in the Department."

7. Review Petition No.65 of 2021 was filed by the petitioner on the basis that grounds raised by the petitioner in the writ petition have not been discussed or reflected in the order of the writ petition. The learned Single Judge dismissed the review petition by an order dated 06.04.2021 holding that the same is not a permissible ground to be considered under the review jurisdiction.

8. In the writ appeal, return was filed on behalf of respondents No. 2 and 3. A separate return was also filed by the respondent No. 1.

9. In the return filed by respondent No.1, it is stated that by a letter dated 04.01.2021, respondents No. 2 and 3 were informed that the respondent No. 3 is competent to initiate disciplinary proceeding against the petitioner and the State has no role in the affairs of the Board.

10. In the return filed by the respondents No.2 and 3, it is stated that the petitioner was promoted to the post of General Manager from the post of Deputy General Manager vide order dated 23.06.2008 and during the relevant period i.e. 2007-2008, he was working in the post of Senior Tourism Officer (Marketing) / Deputy General Manager (Planning and Marketing). It is stated that in the year 2007-2008, there was an Audit objection in respect of certain financial

irregularities in respect of purchases made. The matter was brought to the notice of Lok Aayog, State of Chhattisgarh, by way of a complaint and on the basis of an enquiry, a report was submitted to the State Government indicating that it appeared that financial irregularities had been committed, and recording specific findings against the petitioner regarding his involvement. A Committee was also set up by the respondents No. 2 and 3 to look into the matter and the Committee had submitted a report in the year 2018. It is pleaded that question of delay did not arise as various proceedings have been going on for many years and it is not a case that after a long lapse of many years, a charge-sheet was suddenly issued.

11. In the rejoinder-affidavit filed to the reply of the respondents No.2 and 3, amongst others, it is stated that under Section 7 (3)(b) of the Chhattisgarh Lok Aayog Adhiniyam, 2002 (for short, 'the Adhiniyam of 2002'), a Lok Aayog cannot enquire into any complaint, if the same is made after expiry of five years from the date on which the action complained against is alleged to have taken place. It is also pleaded that the petitioner was not the in-charge of stores and purchases and all the administrative and financial powers were vested with respondent No.3.

12. Mr. Manish Nigam, learned counsel for the appellant submits that under the Rules of 2015, the Board is the "Appointing Authority" and as such, power has been vested with the Board under Rule 51 to place the services of the petitioner under suspension. However, in the instant case, the Board did not pass any order and furthermore, there is no delegation of power by the Board to the Managing Director empowering him to pass order of suspension. It is further urged that charge-sheet has been issued after undue and unexplained delay of more than 12 years inasmuch as the respondents were aware of Audit Report submitted by the Accountant General in the year 2008 itself and even then, they have chosen not to take any action upon the same. It is submitted that the authorities acted illegally and arbitrarily and for extraneous consideration in issuing the charge-sheet against the appellant. It is further submitted that in the enquiry report dated 25.04.2018, no liability had been fixed on the petitioner and therefore, initiation of proceedings on the basis of such report is also illegal and cannot be sustained. He also submits that the Lok Aayog, at any rate, could not have entertained a time-barred complaint.

13. Grievance is also expressed that the "Departmental Enquiry Commissioner" appointed as the Enquiry Officer is beyond the purview of the Rules of 2015 as well as the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966, (for short, 'the Rules of 1966') which do not prescribe for appointment of an "Enquiry Officer" from outside the cadre of the Department.

14. He places reliance in the decisions of the Hon'ble Supreme Court in the cases of State of Madhya Pradesh v. Bani Singh and Another, reported in 1990 (Supp) SCC 738, P.V. Mahadevan v. M.D. T.N. Housing Board, reported in (2005) 6 SCC 636, Secretary, Ministry of Defence and Others v. Prabhash Chandra Mirdha, reported in (2012) 11 SCC 565, Anant R. Kulkarni v. Y.P. Education Society and

others, reported in (2013) 6 SCC 515, UCO Bank and others v. Rajendra Shankar Shukla, reported in (2018) 14 SCC 92, and a decision of this Court in the case of Randhir Deyasi v. Chhattisgarh Lok Ayog & Others, reported in 2011 SCC OnLine Chh 150 and a decision of the High Court of Madhya Pradesh dated 02.02.2012, passed in WA No. 489 of 2007.

15. Abiding by the stand taken in the return filed by the respondents No. 2 and 3, Mr. Ashish Shrivastava, learned senior counsel, appearing for respondents No. 2 and 3, submits that the plea set up by the appellant that the charge-sheet had been issued after many years of the alleged incident and that the respondents No. 2 and 3 have failed to explain the delay, is misconceived and the learned Single Judge, on due consideration of the relevant aspects of the matter, had passed the impugned judgment, which calls for no interference. It is further submitted that in view of the letter dated 04.01.2021, the letter dated 18.04.2020 has no significance inasmuch as it is made very clear by the respondent No. 1 that it is the Managing Director of the Board, who is competent to initiate disciplinary proceeding and therefore, nothing hinges on the letter dated 18.04.2020. The appellant is yet to respond to the charge-sheet and therefore, in any event, the question of appointment of Enquiry Officer and Presenting Officer does not arise at this juncture. It is also submitted by him that there is no merit in the contention that the charges are vague and lacking in material particulars. He asserts that under the provisions of the Rules of 2015, the Managing Director has the power and authority to issue the charge-sheet.

16. Mr. Shrivastava relies on the decision of the Hon'ble Supreme Court in the case of Anant R. Kulkarni (supra), and in the case of State of Madhya Pradesh and Another v. Akhilesh Jha and Another, reported in, 2021 SCC OnLine SC 696.

17. Ms. Meena Shastri, learned Additional Advocate General, appearing for respondent No. 1, submits that she has no role to play in the subject matter in dispute.

18. We have considered the submissions of the learned counsel for the parties and have perused the materials on record.

19. Appointing Authority is defined at Rule 3(D) to mean the Board or Managing Director. Rule 51 provides that an employee may be placed under suspension by the Appointing Authority, where the disciplinary proceeding against him are contemplated or are pending, or where a case against him in respect of a criminal charge is pending, if the charge is connected with his duties as a servant of Board or likely to embarrass him in the discharge of his duties in the Board or involve moral turpitude. Having regard to the definition of Appointing Authority, the contention of Mr. Shrivastava that the Managing Director has no authority to suspend the appellant is found to be without any merit.

20. At the outset, it will be relevant to take note of the judgments cited of the Bar for the purpose of appropriately considering the issue raised in this appeal.

21. In *Randhir Deyasi* (supra), the Division Bench of this Court held that report of Lok Aayog is only a recommendation, which can form part of the charge-sheet or show-cause notice, but cannot form the basis of any punitive action. The Competent Authority has to take an independent decision in respect of the charges framed after following the procedure as laid down in the applicable service Rules.

22. The High Court of Madhya Pradesh in WA No. 489 of 2007, quashed the charge-sheet issued after lapse of 14 years. It was observed that no provision could be brought to the notice of the Court that only because the case was registered by Lokayukta, there was an obligation on the part of the disciplinary authority to await the decision of Lokayukta.

23. In *Prabhash Chandra Mirdha* (supra), the Hon'ble Supreme Court had observed that law does not permit for quashing of the charge-sheet in a routine manner. In case charge-sheet is challenged before the Court/ Tribunal on the ground of delay for initiation of the disciplinary proceeding and/or delay in concluding the proceeding, the Court/Tribunal may quash the charge-sheet after considering the gravity of the charge and all relevant factors involved in the case weighing all the facts both for and against the delinquent employee and must reach the conclusion which is just and proper in the circumstances. The unexplained protracted delay on the part of the employer may be one of the circumstances in not permitting the employer to continue with the disciplinary proceedings, However, if the delay is satisfactorily explained then the proceedings should be permitted to be continued.

24. In *P.V. Mahadevan* (supra), the disciplinary proceeding was initiated against the appellant in the year 2000 for irregularities committed in the year 1990 which came to the notice of the disciplinary authority on the basis of the Audit report 1994-1995. The Hon'ble Supreme Court observed that the explanation for delay cannot be accepted. At paragraph 11 it was observed as under:

"11. Under the circumstances, we are of the opinion that allowing this respondent to proceed further with the departmental proceedings at this distance of time will be very prejudicial to the appellant. Keeping a higher government official under charges of corruption and disputed integrity would cause unbearable mental agony and distress to the officer concerned. The protracted disciplinary enquiry against a government employee would, therefore, be avoided not only in the interests of the government employee but in public interest and also in the interests of inspiring confidence in the minds of the government employees. At this stage, it is necessary to draw the curtain and to put an end to the enquiry. The appellant had already suffered enough and more on account of the disciplinary proceedings. As a matter of fact, the mental agony and sufferings of the appellant due to the protracted disciplinary proceedings would be much more than the punishment. For the mistakes committed by the department in the procedure for initiating the disciplinary proceedings, the appellant should not be made to suffer."

25. In *Bani Singh* (supra), noticing that the irregularities which formed the subject matter of the enquiry, were said have taken place within 1975-1977 and that it being not the case of the department that it was not aware of the said irregularities, if any, and that it came to know of the irregularities only in year 1987, the Hon'ble Supreme Court, finding that there was no satisfactory explanation for the inordinate delay in issuing the charge memo, held that it would be unfair to permit the departmental enquiry to be proceeded with at that stage.

26. In *Anant R. Kurkarni* (supra), the Hon'ble Supreme Court at paragraph 14 observed as follows:

"14. The court/tribunal should not generally set aside the departmental enquiry, and quash the charges on the ground of delay in initiation of disciplinary proceedings, as such power is dehors the limits of judicial review. In the event that the court/tribunal exercises such power, it exceeds its power of judicial review at the very threshold. Therefore, a charge-sheet or show-cause notice, issued in the course of disciplinary proceedings, cannot ordinarily be quashed by the court. The same principle is applicable in relation to there being a delay in conclusion of disciplinary proceedings. The facts and circumstances of the case in question must be carefully examined taking into consideration the gravity/magnitude of the charges involved therein. The court has to consider the seriousness and magnitude of the charges and while doing so the court must weigh all the facts, both for and against the delinquent officers and come to the conclusion which is just and proper considering the circumstances involved. The essence of the matter is that the court must take into consideration all relevant facts, and balance and weigh the same, so as to determine, if it is in fact in the interest of clean and honest administration that the said proceedings are allowed to be terminated only on the ground of delay in their conclusion."

27. In *Rajendra Shankar Shukla*, (supra), in absence of any explanation for the unexplained delay, the Hon'ble Supreme Court observed that though some internal discussions were going on within bank, the fact that it took the bank 7 years to make up its mind, is totally unreasonable and unacceptable. Hon'ble Supreme Court also noted that despite discussions that were going on in the bank, the employee was allowed to cross the efficiency bar and if the Bank was serious about proceeding against the employee for misconduct, it would not have granted him the benefit of being placed in a higher category or crossing the efficiency bar. Taking serious note of the issue, the Hon'ble Supreme Court dismissed the appeal of the Bank with cost of Rs. 1 lakh to be paid to the employee.

28. In *Akhilesh Jha* (supra), the Hon'ble Supreme Court observed that every delay in conducting a disciplinary enquiry does not, ipso facto, lead to the enquiry being vitiated. Whether prejudice is caused to the officer who is enquired into is a matter which has to be decided on the basis of the circumstances of each case. Prejudice must be demonstrated to have been caused and it cannot

be a matter of surmise. On consideration of material facts, the Hon'ble Supreme Court set aside the order of the Tribunal quashing the charge-sheet and which was affirmed by the High Court, holding that no prejudice was caused to the employee by reason of delay of three years in concluding the enquiry.

29. Bearing in mind the principles laid down in the above judgments, we will now advert to the facts of the case. We may note here that the learned counsel for the parties had furnished English translations of some documents in Hindi, on which they had placed reliance.

30. In the letter dated 23.12.2020, it is recited that serious objections had been raised against the petitioner by the Accountant General during the Audit period of 2007-08, when the petitioner was working as Senior Tourism Officer (Marketing) / Deputy General Manager (Planning and Marketing). It is alleged that the petitioner failed to discharge his duties and responsibilities and as such, he has made himself liable to the penalties mentioned in Rule 44 of the Rules of 2015 for committing misconduct described in Rules 43 (1), (8), (11), (12) and (16) as well as Rules 33 and 34 of Chapter-3 of the Chhattisgarh Tourism Board's Service Bye-laws, 2002 ('Bye-laws, 2002', for short). Along with the said letter, the charge-sheet, statement of allegations, list of documents by which the charges have been proposed to be established and the list of witnesses were enclosed. The petitioner was asked to show-cause within a period of 15 days from the date of receipt of the letter, failing which it was indicated that action would be taken in accordance with the Rules of 2015 and the Bye-laws, 2002.

31. The charge-sheet contains three charges. In charge No.1, it is stated that the office of the Accountant General, in Audit para No.3.2.28 of the Board for the year 2007-08, raised objection regarding financial irregularities of funds. During the relevant period, the petitioner issued work order / got the work done by recommending the works without following the Stores Purchase Rules, 2002 (for short 'Rules of 2002',) and that apart, the petitioner violated the Standard Principles of Financial Propriety described in the Financial Code. In charge No.2, it is recited that the petitioner, instead of purchasing the articles manufactured by the Handicrafts man through Handicraft Cell of the Department of Industries, purchased the gift items, memento, wooden art, furniture, painting and handicraft from private firms and thus, violated the provision of Rule 8 of the Rules of 2002. After making entry of purchase / printed materials in the stock register of the Board, he did not put the signature with date as a competent officer and he initiated proceeding for making payment and also recommended payment against the material supplied without verifying as to whether there is proper entry or not in the store register. In charge No.3, it is alleged that the petitioner neglected his responsibilities and duties and the task assigned to him and did not conduct annual physical verification of the same and the report of the Enquiry Officer of the Board shows that the Board had suffered financial loss of Rs.6,37,12,751/-.

32. The relevant Audit objection reads as follows :

"3.2.28 Stores and Stock

The BoD had decided in its first meeting that stores and stocks rules of the State Government would be followed by the Board. It was observed that the purchase and other procedure prescribed by the stores and stocks rules were not being followed as given below :

- In most cases there were no indents or requisitions from operational wings for purchase of items.
- In most cases prior approvals for purchase were not taken from the competent authority. Bills were presented after incurring expenditure and passed for payment by the MD, thus giving post facto approval.
- On receipt of purchased goods, requisite verification of quality and quantity were not recorded on invoices.
- Scrutiny of purchase bills showed that the certificates of entry in the Stock Register and cross reference of the register page were not made.
- Audit gave a requisition for Stock Registers in October 2007, December 2007 and February 2008. They were finally produced by the Board in May 2007 after a delay of seven months. Scrutiny showed that the registers were not maintained properly. Voucher or cash book reference had not been recorded and annual physical verification had not been done. While the Board incurred huge expenditure on printing of publicity material, these were not properly taken to stock and issues were also not recorded. Therefore, it was not possible to ascertain the manner of utilization of the material.
- Similarly, gift items and mementos such as paintings, handicrafts, etc. were also purchased in large quantities. Receipts and issues were not recorded in the Stock Registers and utilization could not be verified.
- It was observed from scrutiny of vouchers that items of furniture, air conditioner, etc. were purchased for Chairman, MD, PS and other officials of the Board. These were also not found entered in the Stock Register. Therefore, there was no system to monitor the issue and return of these items which were purchased by the Board but in the possession of the various officials.
- The Board did not furnish clarifications of the above points.
- In view of the poor controls on vouching and stores, there was high risk of pilferage of large number of items purchased and not entered on stock. Many of these items were in possession of various personnel and there was no assurance that their return can be monitored. The Board must immediately prepare an inventory of such items from vouchers and get them entered in the stock registers."

"3.2.29 Conclusion

- The Board carried out a large number of activities for the promotion of

tourism in the newly created State of Chhattisgarh. However, it did not frame any short or long term plans and did not assess the actual growth in tourism. Therefore, there was no criteria to measure its degree of success. It took up the major interventions in the tourism policy of the State by initiating a large number of construction works and publicity and tourism promotion activities. It functioned with very weak controls and there was lack of transparency in awarding large number of works without tendering and engaging of personnel without a selection process. It extended undue benefits to its employees, contractors, Board members and officials of tourism department in the form of inadmissible facilities and allowances and irregular travel including unauthorized foreign trips. Some instances of fraudulent claims and manipulation of records were also detected. The Board was also deficient in accounting and maintenance of stock which facilitated large scale of irregularities and fraud."

33. A perusal of the Audit Objection and the Conclusion drawn would go to show that the Board did not furnish the clarification on the points raised and that the Board extended undue benefits to its employees, contractors, Board members and officials of tourism department, in the form of inadmissible facilities and allowances. Significantly, no observation was directly made against the appellant in the Audit Objection.

34. In the Enquiry Report dated 25.04.2018, no allegations were made against the appellant and it was commented upon that the Tourism Board had not followed the process laid down under the Rules of 2002.

35. Though in the charge-sheet, it is observed that in the Enquiry Report, the appellant was held guilty, the same is not a correct observation as the report did not implicate the appellant and rather the Board was found wanting in following the Rules of 2002, which resulted in financial irregularities.

36. It appears that the Secretary of the Chhattisgarh Lok Aayog wrote a letter dated 10.02.2020 to the Secretary of Chhattisgarh Tourism Department, Government of Chhattisgarh that in case No. 58 of 2015, the Chief Lok Aayukt had recommended for conducting a departmental proceeding under Section 11(1) of the 'the Adhiniyam of 2002, against the appellant and one Shashankdhar Diwan, Tourism Officer and requested to apprise the Aayog within a period of three months the action taken thereof. Materials on the record do not indicate who had lodged the complaint.

37. Though, the report of the Lok Aayog of the letter dated 10.02.2020 has not been called into question by the appellant, it would appear that subsequent to the aforesaid letter dated 10.02.2020, decision was taken to issue the charge-sheet dated 23.12.2020 and to suspend the appellant.

38. Section 7(3)(a) of the Adhiniyam of 2002 provides that Lok Aayog shall not enquire into any complaint if it is made after the expiry of twelve months from the date on which the action complained against becomes known to the complainant. Proviso thereto enables the Lok Aayog to entertain a complaint

referred to Section 7(3)(a) if the complainant satisfies it that he had sufficient cause for not making the complaint within the period specified in the clause. Section 7(3)(b) of the Adhiniyam of 2002 provides that Lok Aayog shall not inquire into any complaint if it is made after the expiry of five years from the date on which the action complained against is alleged to have taken place. However, there is no such provision for entertainment of the complaint under Section 7(3)(b) after period of five years.

39. At the cost of repetition, it is to be noted that the irregularities were pointed out in the financial year 2007-08 itself. The Lok Aayog had recommended by letter dated 12.02.2020 for initiating the departmental proceeding against the appellant under Section 11(1) of the Adhiniyam of 2002 on a case registered as Case No. 58 of 2015 on the basis of a complaint. Having regard to the year of registration of the case, evidently, complaint was lodged more than five years after the alleged irregularities had taken place in the year 2007-08. Since we are not called upon to decide the correctness or otherwise of the report of the Lok Aayog, we will not say anything further.

40. The learned Single Judge, while dismissing the writ petition, had observed that it was not a case where the matter had suddenly cropped up and charge-sheet had been issued as there had been enquiries in the meantime and accordingly, had held that there was no delay in issuing the charge-sheet.

41. It is not a case, as noted earlier, where authorities were in the dark about any alleged irregularities taking place in the Chhattisgarh Tourism Board. The disciplinary authority or the appointing authority did not take any step whatsoever against any employee or officer after the irregularities were pointed out in the Audit Report for the year 2007-08 for six or seven years. It appears that the Commissioner, Raipur was appointed to enquire into the matter by an order dated 02.12.2015 and he was asked to submit his report within a period of three months indicating who were responsible for the irregularities committed. There is no explanation as to why no enquiry was undertaken for such a long period of time. Subsequently, by an order dated 1.04.2017, the order dated 02.12.2015 was modified and the subsequent incumbent Commissioner was entrusted to conduct the enquiry and to submit his report within one month by identifying the employees responsible, giving him the liberty to take assistance of any of the employees. After report was submitted on 25.04.2018, in which the appellant was not implicated, it took another two and half years to initiate disciplinary proceeding. By then, long twelve years had elapsed. It is also seen that the report dated 25.04.2018 was prepared not by the Commissioner but by three officers of the office of the Commissioner. While the Court ought not to quash a charge-sheet in a routine manner on the ground of delay in initiating disciplinary proceeding, the Hon'ble Supreme Court had also observed that for unexplained protracted delay on the part of the employer, it will be permissible to quash a charge-sheet. In the attending facts and circumstances of the case, having regard to the gross unexplained delay as also the observations in the

Enquiry Report, we are of the considered opinion that it would be unfair to permit the departmental enquiry to be proceeded with.

42. Taking that view, the order of the learned Single Judge is set aside. Writ appeal is allowed. The charge-sheet dated 23.12.2020 and the order of suspension dated 11.11.2020 are quashed.

43. No cost.