



**Central Administrative Tribunal  
Principal Bench,  
New Delhi**

**O.A. No.3258 of 2025**

**Orders reserved on :14.01.2026**

**Orders pronounced on : 19.01.2026**

**Hon'ble Mr. Justice Ranjit More, Chairman  
Hon'ble Mr. RajinderKashyap, Member (A)**

Sameer Dnyandev Wankhede  
Aged 44 years  
S/o Sh. Dnyandev Kachruji Wankhede  
R/o 204, A-Wing, Royal Classic,  
New Link Road, Andheri (W),  
Mumbai – 400053.

...Applicant

(By Advocates: Shri Ajesh Luthra with Shri Jatin Parashar and  
Ms. Meenu Sharma)

**VERSUS**

1. Union of India  
Through its Secretary,  
Department of Revenue  
Ministry of Finance  
North Block, New Delhi – 110011
2. Central Board of Indirect Taxes and Customs (CBIC)  
Through its Chairman  
North Block, Central Secretariat  
New Delhi – 110001

...Respondents

(By Advocate: Shri Ravi Prakash, Senior Advocate assisted by Shri Hanu Bhaskar, Ms. Astu Khandelwal and Mr. Yasharth)



## O R D E R

### **Hon'ble Mr. RajinderKashyap, Member (A):**

By filing the instant OA under Section 19 of the Administrative Tribunals Act, 1985, the applicant is seeking the following prayers:-

- "a) Quash and set aside the impugned Charge Memorandum No. 30/2025 dated 18.08.2025 issued to the Applicant;*
- b) Restrain the Respondents from proceeding further in pursuance of the impugned Charge Memorandum dated 18.08.2025 during the pendency of the present Original Application;*
- c) Pass any other or further order(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and in the interest of justice."*

### **FACTS OF THE CASE**

2. The applicant is an Indian Revenue Service (IRS) Officer and currently posted as Additional Commissioner under the Ministry of Finance, Revenue Department. Prior to the present posting, he was the Zonal Director, Narcotics Control Bureau, Mumbai, Maharashtra. The applicant, an IRS Officer, is in the Government service since past 18 years and throughout the tenure of his service, he has been instrumental in curbing the menace of illegal activities and exposing and catching hold of criminals involved in smuggling and illegal procurement and sale of narcotic drugs and psychotropic substances. The applicant claims that he had received many awards and accolades while serving various departments, some of them are as under:

<b>Sl. No.</b>	<b>Year</b>	<b>Details of Certificate/Commendations/ Appreciations/Medals</b>	<b>Given by</b>
1	2013	Commendable performance in surpassing the original revenue target by a comfortable margin and realizing 727 crores against the target of Rs.	Commissioner of Customs, CSI Airport, Mumbai



		613 crores and thereby achieving 60% growth over the revenue realization of previous year.	
2	2012	Certificate of Appreciation awarded by all Chief Commissioners of Customs of Mumbai Zone-I/II & III in recognition of outstanding work and commendable contribution in the year 2011 on the occasion of International Customs Day held on 02/02/2012	Chief commissioners of Customs, Mumbai Zone-I, II & III
3	2014	Excellent service in connection with seizure of fake Indian Currency Notes and apprehension of accused persons involved. Ref. No. E-54/CC/2014(Vol-II)/NIA/3156 dtd 24th March, 2014	DIG, NIA, New Delhi
4	2015	Excellent work in the arrest of COFEPOSA wanted accused TanveerPariyani (in joint operation with Marine Preventive Team) – Home dept. No. PSA-1214/Cr.-47(3)-SPL-3(A) dated 16/09/2014	DIG, NIA, Mumbai
5	2015	Excellent work done in the arrest of 4 accused along with a consignment of 11 pistols, 22 live cartridges and cannabis from Lucknow, UP in Lucknow ATS CR No. 03/2015 &Gagha Thane, Gorakhpur CR No. 260/2015	DIG, NIA, Mumbai
6	2015	Excellent work done in the arrest of wanted accused Nasir Khan in Bharuch double murder case RC No. 13/2015/NIA/DLI dtd 10/02/2016	DIG, NIA, Mumbai
7	2015	Excellent work done in tracing suspected person who facilitated hawala / provided SIM cards in Bharuch double murder case RC No. 13/2015/NIA/DLI dtd 11/02/2016	DIG, NIA, Mumbai
8	2015	Excellent work done in dealing with illegal trade of weapons case (in joint operation with MIDC Police Station) in highly professional manner. (MIDC Police Station LAC No. 169/2015 u/s 3, 25 Arms Act r/w 37(1)(A), 135 Maharashtra Police Act)	DIG, NIA, Mumbai
9	2015	Excellent work in connection with the case in Bijnor Bomb Blast Case (Ref No. 207/2015/NIA/Mum, dtd 09/06/2015), in a highly professional manner	DIG, NIA, Mumbai
10	2015	Excellent work in connection with collecting important mobile numbers of relatives of wanted accused in Bijnor Bomb Blast Case. Ref. No. 01/2015/NIA/DLI	DIG, NIA, Mumbai
11	2015	Excellent work in connection with collecting valuable information of Dawood Ibrahim gang and preparing Dossier of Dawood Ibrahim Kaskar	DIG, NIA, Mumbai
12	2015	Excellent work in connection with collecting valuable information regarding logistical support provided to wanted accused in Bijnor Bomb Blast Case. Ref No. 01/2015/NIA/DLI	DIG, NIA, Mumbai
13	2016	Excellent work in connection with valuable information collected regarding an absconding accused in an ISIS Case. Ref. No. RC No. 01/2014/NIA/MUM	DIG, NIA, Mumbai
14	2016	D.G.'s Commendation Roll in recognition of the officer's commitment to duty and professional excellence during the year 2016	D.G., NIA, New Delhi
15	2016	Excellent services rendered in connection with his hard work during joint operation conducted on 28/10/2015 at Lucknow and seizure of illegal Arms and Ammunition i.e. 11 Indian made Pistol, 21 Magazines and 5 live Cartridges	DG, NIA, New Delhi
16	2016	Excellent services rendered in connection with interrogation of accused person in RC-	DIG, NIA, Mumbai



		13/2015/NIA/DLI	
17	2016	Excellent services rendered in connection with conducting the joint operation with BSF at Murshidabad (WB) resulting into apprehension of 3 accused persons with high quality FICN face value of Rs. 2,13,500/-	DG, NIA, New Delhi
18	2017	Providing extremely valuable information and hard intelligence in the activities of the IRF (Dr.ZakirNaik case)	DG, NIA, New Delhi
19	2017	Extraordinary and praiseworthy performance for developing the Media Monitoring Cell at Mumbai for surveillance on the activities of ISIS and ISIS sympathisers	DG, NIA, New Delhi
20	2018	Excellent services rendered in connection with seizure and investigation of Eight MT of Shark fins	ADG, DRI, MZU
21	2018	Exceptional leadership, encouragement and support provided to officers of DRI, MZU leading to excellent performance of DRI during the year 2017-18	DG, DRI, New Delhi
22	2019	Extraordinary contribution rendered in record seizure of 185 Kgs of Gold by DRI, MZU from a syndicate of professional smugglers	Pr. DG, DRI, New Delhi
23	2019	Received DG Disc Medal on 01.08.2019 from DG DRI, New Delhi for meritorious service	DG, DRI, New Delhi
24	2021	Awarded "Union Home Minister's Medal for Excellence in Investigation – 2021" on 15.08.2021	Union Home Minister
25	2021	Awarded "Maharashtra Samman–2021" by the hands of Hon'ble Governor of Maharashtra on 20.07.2021	Hon'ble Governor of Maharashtra
26	2021	Certificate of Appreciation awarded by the Deputy Director General (SWR), NCB, Mumbai on 16.03.2021 in recognition of outstanding work and commendable contribution in the year 2020-21	Deputy Director General (SWR), NCB Mumbai

2.1 The applicant during his tenure as Zonal Director of the Narcotic Control Bureau busted various drug rackets and gangs who were operating the drug-selling rackets throughout the region of Maharashtra and Goa. He had meticulously busted the menace of narcotic drugs and honestly carried out his duties to curb the abuse of narcotic drugs. He has also solved various high profile cases wherein influential persons were involved for the offences under the Narcotic Drugs and Psychotropic Substances Act. The continuous onslaught by the applicant on the drug traffickers and gangs involved in the procurement of drugs has led to the



applicant, being unfairly targeted, by the political bosses of the said drug mafia.

2.2 The applicant's hard work in due performance of his duties had been duly recognized and he had been conferred with honours. Thus he had not only meticulously performed his duties as an honest officer, but the same has also been recognized and conferred honours for the same from time to time.

2.3 The applicant has served in various National Agencies, like IB, NIA, DRI, Customs and NCB, which was on loan basis in August 2020 and had supervised many drugs related cases including case of late actor Sushant Singh Rajput and was awarded by the Hon'ble Union Home Minister for excellence in investigation in August 2021. In February, 2021, NCB, Mumbai had arrested one Shri Sameer Khan in '189 kg Ganja' case. Shri Sameer Khan was the son- in-law of ex-Cabinet Minister of Maharashtra and was released on bail in September, 2021. Immediately after that, Shri Aryan Khan, son of the actor Shri Shahrukh Khan, was arrested in the notorious Cordelia Cruz drug bust along with 19 others. Shri Nawab Malik then grabbed the opportunity to take revenge and started defaming, putting false, cheap and baseless allegations on the integrity, caste, career and family of the applicant, including his dead mother, old father, and sister. All the allegations made against the applicant's family were found to be totally false and baseless by SET of Mumbai Police as well as learned National Commission for Scheduled Caste, learned



State Caste Scrutiny Committee and the Hon'ble Bombay High Court. Accordingly, an FIR dated 14.8.2022 (**Annexure A/2**) was also lodged in August, 2022 at Goregaon Police Station, Mumbai under the provision of SC and ST (Prevention of Atrocities) Act, 1989 against Shri Nawab Malik under the directions of learned National Commission for Scheduled Caste. Further, the learned Washim District Court had ordered to lodge yet another FIR dated 16.11.2022 (**Annexure A/3**) against the said Mr. Nawab Malik under the provisions of the Preventions of the Scheduled Castes and Scheduled Tribe (Prevention of Atrocities) Act, 1989 by the family members of the applicant. Furthermore, the applicant has recently filed a Criminal Writ Petition (Stamp) No.24112/2024 against Sh. Nawab Malik under SC/ST Act before Hon'ble High Court of Bombay wherein notice has been issued vide order dated 28.11.2024 (**Annexure A/4**) and further sought details from Mumbai Police concerning their investigation into a case against Sh. Nawab Malik.

2.4 Subsequently, the Special Enquiry Team (SET) was ordered and the enquiry was conducted under the Chairmanship of the then DDG, although he himself was supervising the investigation in the Crime No.94 of 2021. The said inquiry was vitiated as the said DDG could not have been the judge of his own cause. Therefore, the SET Report dated 16.06.2022 and all consequential actions were challenged before this Tribunal by way of O.A. No.3722 of 2022 on the ground of violation of the principles of natural justice and this Tribunal, vide



Order/Judgment dated 21.08.2023 [Annexure A/5 (Colly.)], partly allowed the said OA with the following observations/directions:-

*"7. The OA was placed before us for admission on 19.12.2022. On that day, we issued notice to the respondents. Thereafter, the matter was placed before us on 20.12.2022. After hearing learned counsel appearing for the respective parties, we granted the request of the respondents seeking some time to file affidavit in reply. However, by way of ad-interim relief we directed that before taking any action against the applicant on the basis of the said SET report dated 16.06.2022, the respondent No. 1, i.e. Department of Revenue, Ministry of Finance, shall grant a personal hearing to him.*

*8. Having gone through the OA and the annexures thereto along with the counter affidavit filed by the respective respondents and rejoinder thereto by the applicant, we find that the applicant in his capacity as Zonal Director, NCB, Mumbai registered Crime No.94/2021 on 02.10.2021 and investigated the same. One, Mr. Ashok Mutha Jain, DDG, South-West Region, NCB was applicant's senior officer. However, Mr. Ashok Mutha Jain was on leave for the period between 04.10.2021 and 08.10.2021 with prefixes and suffixes (on 02-03.10.2021 and 09-10.10.2021), and his charge for the leave period was given to Mr. Gyaneshwar Singh, DDG, Northern Region, NCB, the respondent No. 4 herein. It is also an admitted fact that respondent No. 4 visited Mumbai on 06.10.2021 and returned to Delhi on 10.10.2021 in connection with the investigation of NCB Crime No. 94/2021. We also find from the WhatsApp chat that the respondent No. 4 was in touch with the applicant from 03.10.2021 to 12.10.2021. It is also pertinent to mention that through this WhatsApp chat respondent No. 4, not only supervised and gave instructions to the applicant in respect of the investigation under NCB Crime No. 94/2021, but also gave the plan of action to him.*

*9. Respondent No. 4, in our opinion, being actively involved in the investigation could not have been the part of SET, which was constituted to hold an enquiry for the alleged procedural lapses on the part of officials during the seizure and follow up action in connection with the aforesaid crime. However, taking note of the arguments of the respondents that impugned SET report is preliminary in nature and the respondent Nos. 1 or 5 have to take independent decision regarding the action to be taken against the applicant, we are of the opinion that the interest of justice would be subserved by directing the respondent Nos. 1 or 5 to grant personal hearing to the applicant before initiating any action against him on the basis of the impugned SET report and the decision so taken shall be communicated to him by passing a reasoned and speaking order."*

2.5 Thereafter, the respondents filed Review Application No.137 of 2023 in the aforesaid OA No.3722/2022 seeking to review the aforesaid Order dated 21.08.2023 passed in the said



OA and this Tribunal vide Order/Judgment dated 13.10.2023 (Annexure A/7) dismissed the said Review Application in circulation.

2.6 The respondents thereafter had filed Writ Petition (Civil) No.2873/2024 challenging the aforesaid Order/Judgment dated 21.08.2023 passed by this Tribunal in aforesaid OA No.3722/2022 before the Hon'ble High Court of Delhi and the Hon'ble High Court vide Order/Judgment dated 27.02.2024 disposed the said Writ Petition, relevant paras whereof read as under:-

*"3. Vide the impugned order dated 21.08.2023, the learned Tribunal has partly allowed the original application filed by the applicant/respondent no. 1 by directing that before a decision is taken by the respondent nos. 1 and/or 5 therein, to take action against the applicant (respondent no. 1 before this Court), on the basis of the SET report dated 16.06.2022, he be granted an opportunity of personal hearing and a reasoned and speaking order be communicated to him. For the sake of convenience, the parties are hereinafter being referred to as per their position before the learned Tribunal.*

*4. Learned counsel for the petitioners submits that the impugned order is wholly perverse as the learned Tribunal has failed to appreciate that under the CCS (CCA) Rules, there is no requirement of granting any opportunity of personal hearing to a delinquent employee before issuing a charge sheet to him. The learned Tribunal, he therefore, contends has failed to appreciate the difference between a preliminary enquiry like the SET in the present case and a regular departmental enquiry where all principles of natural justice will be duly followed. He, therefore, prays that the impugned order be set aside.*

*5. Issue notice. Mr. AtulNagrajan accepts notice on behalf of the applicant/respondent no. 1, who is the only contesting respondent. Mr. Viraj R. Datar, learned senior counsel appearing for the respondent no. 1 supports the impugned order by contending that in fact, it is the applicant who is aggrieved by the impugned order as the learned Tribunal despite noticing the fact that the respondent no. 4/ Mr. Gyaneshwar Singh, Deputy Director General, Narcotics Control Bureau, who was issuing him directions when he was carrying out the investigation, has been made the Chairman of the SET. After some arguments, he concedes that the directions to pass a reasoned and speaking order at a stage before any action is initiated against the applicant is contrary to law.*



6. Having considered the submissions of learned counsel for the parties and perused the record, we are of the view that in the peculiar facts of the present case, where respondent no. 4 is alleged to have issued directions to the applicant while he was conducting investigation, there is no infirmity with the directions issued by the learned Tribunal insofar as it directs that he be granted an opportunity of personal hearing by respondent no. 1 and/or respondent no. 5 before deciding to initiate any action against him. However, the directions of the learned Tribunal requiring the respondent no. 1 and 5 to pass a reasoned and speaking order before taking a decision to initiate action against the applicant is wholly unsustainable and is required to be set aside. We are, therefore, inclined to agree with the learned counsel for the petitioner that such a requirement of passing a reasoned and speaking order before initiating any action against the applicant, would be contrary to the scheme of CCS (CCA) Rules itself.

7. For the aforesaid reasons, the writ petition is, partly allowed by setting aside the directions issued in para 9 of the impugned order dated 21.08.2023 insofar as it directs the respondent no. 1 and 5 to pass a reasoned and speaking order after granting a personal hearing to the applicant/respondent no. 1 i.e., before taking a decision as to whether any action is required to be initiated against him.

8. The writ petition is, accordingly, disposed of in the aforesaid terms.

9. Needless to state, this order will not come in the way of the applicant/respondent no. 1 assailing the impugned order, if so advised."

2.7 The applicant has also challenged the said Order/Judgment dated 21.08.2023 passed by this Tribunal in OA No.3722/2022 before the Hon'ble High Court of Delhi vide W.P. (C) No.3404/2024 insofar as it does not quash the findings of the SET, which enquiry was held under the Chairmanship of respondent no.4 in the said case. The said Writ Petition was disposed of by the Hon'ble High Court, vide Order/Judgment dated 12.03.2024 [**Annexure A/5 (Colly.)**], the relevant portion of which reads as under:-

"2. After some arguments, learned senior counsel for the petitioner, on instructions from the petitioner, submits that instead of pressing the present petition, the petitioner would be satisfied if this Court were to clarify that the findings of the SET will not be used against the petitioner in the departmental enquiry proposed to be held against him.



3. Learned counsel for the respondents can have no objection to this limited request as it is trite law that the findings of a preliminary enquiry cannot be used for indicting an employee in a departmental enquiry. Furthermore, we find that the learned Tribunal has already clarified this aspect in para 9 of its order dated 21.08.2023 which reads as under:-

*"9. Respondent No. 4, in our opinion, being actively involved in the investigation could not have been the part of SET, which was constituted to hold an enquiry for the alleged procedural lapses on the part of officials during the seizure and follow up action in connection with the aforesaid crime. However, taking note of the arguments of the respondents that impugned SET report is preliminary in nature and the respondent Nos. 1 or 5 have to take independent decision regarding the action to be taken against the applicant, we are of the opinion that the interest of justice would be subserved by directing **the respondent Nos. 1 or 5 to grant personal hearing to the applicant before initiating any action against him on the basis of the impugned SET report and the decision so taken shall be communicated to him by passing a reasoned and speaking order**".*

**4. In the light of the aforesaid, the writ petition along with all accompanying applications is disposed of as not pressed by clarifying that the evidence recorded in the SET will not be relied upon in the departmental enquiry which may be held against the petitioner as per law."**

*(emphasis supplied)*

2.8. It is further stated that by deliberate and gross abuse of the process and powers and overlooking the said order of this Tribunal, NCB malafidely ensured that the CBI registers a case against the applicant and, hence, the CBI registered frivolous offence against him entirely relying on the SET Report being FIR No.RC2172023A0008 dated 11.05.2023 (**Annexure A/8**).

2.9 It is also stated that the relevant portions of the complaint based on which the CBI registered the aforesaid case clearly shows that not only a sanction was given by the Competent Authority but also the complaint was given on the strength of which the FIR was registered by CBI. The same is reproduced here under:-



*"During the course of enquiry conducted by SET as mentioned above, the statements of different individuals have been recorded at Mumbai and Delhi. The SET has also examined the relevant officers concerned as well as the relevant witnesses/persons related to the case. The SET also collected and analysed the documents in the case File No.94 of 2021 of Mumbai and some other cases also as the same were connected with the instant case. The SET also collected various technical evidences to prove the facts of the case.*

*The inquiry conducted by SET has revealed that on 02.10.2021, the names of certain suspects were dropped from the 1<sup>st</sup> information note 'I-Note' and the names of certain other accused were included subsequently through notification to suit the proceedings*

*".....In view of the above, the Competent Authority has accorded previous approval u/s 17(4) of Prevention of Corruption Act, 1988 (as amended in 2018) and has directed to conduct a detailed enquiry/investigation against the then officials of NCB, Mumbai Zonal Unit (MZU) viz (1) Sameer Wankhede IRS (C& CE:2008)....."*

2.10 Immediately, after the registration of the said RC by CBI, in order to cause humiliation and victimization to the applicant, a raid was carried out at the residence of the applicant in which nothing incriminating was found. Since the said FIR was registered by CBI at Delhi and that the applicant was feeling victimized, thus, the applicant sought the intervention of the Hon'ble High Court of Delhi in relation to the said FIR by way of filing a Writ Petition (Crl.)No.1417 of 2023. However, the said Petition was withdrawn vide Order dated 17.05.2023 (**Annexure A/9**) on the basis of statement of the Ld. Special Public Prosecutor for the CBI that the appropriate jurisdiction lies with Hon'ble Bombay High Court as the offence even though registered in Delhi is being investigated at Mumbai. Accordingly, the applicant withdrew the said Petition with liberty to approach the



appropriate forum. The contents of the said Order/Judgment of the Hon'ble Delhi High Court reads as under:-

*"1. The present petition has been filed with the following prayer:-*

*"I. To issue Writ of Mandamus or any other Writ, Order or Direction as deemed to be appropriate directing the Respondent No.4 to register as cross-FIR in the counter version of petitioner in the matter of CBI RC2072023A0008 dated 11.05.2023 (Annexure P-1) or in the alternate to direct the Respondents to carry out a fair, impartial & transparent investigation in the controversy by investigating inculpating role, status & conduct of Respondent No.6 [Sri Gnaneshwar Singh, IPS 1999 HP, DDG, NR/CVO, NCB] & to further direct appropriate Court to monitor the investigation being carried out by the Central Bureau of Investigation (CBI)."*

*2. Mr Nikhil Goel, learned SPP appearing on behalf of the CBI at the outset states that this Court does not have the territorial jurisdiction to entertain the present petition.*

*3. The learned senior counsel appearing for the petitioner submits that without going into the merits of the case, he wish to withdraw the petition with liberty to approach the appropriate forum."*

2.11 Immediately upon withdrawal of the said Writ Petition, the applicant was constrained to approach the Hon'ble Bombay High Court by instituting Writ Petition (ST) No. 9645 of 2023. The Hon'ble High Court of Judicature at Bombay vide Order/Judgment dated 19.05.2023 (**Annexure A/10**) was pleased to grant the applicant interim protection by directing that no coercive steps shall be taken against him pursuant to any action initiated by the CBI. The relevant portion of the said Order of the Hon'ble High Court reads as under:-

*"5. Learned counsel appearing for the petitioner submits that the FIR has been registered on 11/5/2023 pursuant the sanction which has been granted under section 17A of the Prevention of Corruption Act, 1988 (for short, "the Act") on*



11/5/2023. He would submit that the second proviso to Section 17A of the Act creates a legal bar. He would further submit that the Apex Court in the case of **State of Haryana v. Bhajan Lal, AIR 1992 SC 604** held that one of the conditions in which FIR ought to be quashed is where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act under which a criminal proceeding is instituted. He would submit that inquiry in the present case is relatable to the offence of the year 2021 and as such the prescribed period of 4 months under section 17A of the Act has already lapsed. He would further submit that even taking into consideration the report of the Special Inquiry Team dated 25/10/2021, bar under section 17A of the Act would still apply. He would further point out that on 14/5/2023 the notice has been issued under section 41A of Cr.P.C. and as such the arrest of the person is not required unless there is non compliance. He would further point out that the directions which are set out in the notice under section 41A of Cr.P.C. makes the petitioner vulnerable in as much as in event of non compliance of the directions the power under section 41A (3) (4) of Cr.P.C. still be invoked.

6. Per contra, learned counsel for respondent No.2 and learned counsel for Respondent No.3 submits that the sanction has been granted on 11/5/2023 and as such the period of 4 months would commence after the order of sanction. He would further submit that the provisions of section 17A of the Act are contained Chapter IV which deals with investigation into the case and investigation has commenced now. He would further request for time to place on record affidavit in reply and sanction which has been granted in the present case.

7. Considered the submissions. Today the petitioner is before us for a limited relief not to take any coercive action against the petitioner. Learned counsel appearing for the petitioner makes a statement on instructions of the petitioner, present in court that, the petitioner will co-operate with the investigation and attend the office of respondent No.2 at BKC, Mumbai tomorrow a 11.00 a.m. and as and when required.

8. Considering that the Petitioner undertakes to appear before the Investigating Agency-Respondent No.2 tomorrow, *prima facie*, the question of invoking Section 41A(3) and (4) of Cr.P.C. does not immediately arise. As the respondent No.2 seeks time to file affidavit in reply and as we have listed the matter for further hearing on 22/5/2023, in view of the above, in the meantime respondent not to take any coercive action till next date i.e. 22/5/2023.

9. Let affidavit in reply on respondents be tendered in the Registry on 22/5/2023 with an advance copy to the learned counsel for the petitioner.



10. Stand over to 22/5/2023."

2.12 It is stated that the said interim protection was not granted in vacuum, rather it was based upon a *prima facie* satisfaction of the Hon'ble High Court of Bombay regarding the credibility of the material relied upon by the applicant, *inter alia*, the transcript which unmistakably demonstrated *mala fide* and wrongful conduct on the part of the respondents. The grant of such interim relief itself is indicative of the fact that the Hon'ble High Court of Bombay found substance in the grievances raised by the applicant.

2.13 It is further stated that the said Criminal Writ Petition No.1910/2023 titled ***Sameer Dyandev Wankhede vs. Union of India and others***, continues to remain pending consideration before the Hon'ble Bombay High Court. The interim protection originally granted on 19.05.2023 stood extended and continued from time to time. More significantly, on 08.07.2025, the Hon'ble High Court of Bombay was pleased to admit the said writ petition after recording in express terms that arguable questions of law and facts were raised therein. The admission of the writ petition coupled with the confirmation of the interim relief earlier granted unmistakably reinforces that the petition is not frivolous but is supported by substantial grounds warranting judicial scrutiny. It is also stated that in law, the admission of a writ petition by a Constitutional Court itself signifies that the Hon'ble Court has found merit and substance in the issues raised, thereby *prima facie* establishing that the applicant's contentions



are not only *bona fide* but also raised issues of considerable importance requiring adjudication on merits. The contents of Order dated 8.7.2025 passed in the said Criminal Writ Petition read as under:-

*"1) Learned Advocate Mr. Kuldeep Patil appearing for Respondent No.2 - CBI makes two-fold submissions.*

*1.1) Firstly, he submitted that learned Solicitor General of India briefed to oppose Petition by the CBI and due to his pre-occupation, he is unable to attend the Court today.*

*1.2) Secondly, he submitted that, the investigation of present crime which is registered on 11<sup>th</sup> May 2023, will be concluded within a period of three months from today.*

*2) Learned senior counsel for the Petitioner submitted that, even on earlier occasion, adjournments were sought on behalf of Respondent No.2, on similar grounds.*

*3) Heard Mr. Ponda, learned senior counsel for Petitioner.*

*3.1) Arguable questions are raised.*

*3.2) Admit.*

*4) Ad-interim relief granted by Order dated 19<sup>th</sup> May 2023 is confirmed as interim relief.*

*5) The Investigating Agency is granted liberty to circulate Petition after the investigation is completed."*

2.14 It is also stated that after the aforesaid final Order of this Tribunal, another inquiry has been ordered to be initiated against the applicant vide communication dated 21.11.2023. The applicant has challenged it before this Tribunal by way of OA No.1033/2024, which was allowed by this Tribunal vide Order/Judgment dated 22.03.2024 (**Annexure A/12**) wherein this Tribunal has directed the respondents that the evidences recorded during the course of the preliminary inquiry, including an inquiry conducted by the SET, which is the subject matter of



the present OA, will not be relied upon in any further departmental inquiry/disciplinary proceedings, if they were to be held. The relevant portion of the said Order/Judgment of this Tribunal dated 22.03.2024 in OA No1033/2024 reads as under:-

*"27. We have given a careful reading to the impugned communications and would like to quote the subject of the said communications :*

**Subject of impugned communication dated 11.08.2023:**

*Enquiries in the matters:*

- 1) *PE in the Crime No. 56/2021 and 61/2021 of Mumbai Zonal Unit;*
- 2) *PE in the Crime No. 24/2020 of Mumbai Zonal Unit*

**Subject of impugned communication dated 14.08.2023:**

*Enquiries in the matter of complaint forwarded by Nawab Malik in Crime*

**Subject of impugned communication dated 07.02.2024:**

*Appearance before the undersigned at the office of DDG (SWR), NCB with respect to enquiry in complaint received from NCB Hars, New Delhi-reg.*

**Subject of impugned communication dated 21.11.2023:**

*Appearance before the undersigned at the office of DDG (SWR), NCB with respect to enquiry in complaint received from NCB Hars, New Delhi-reg.*

**Subject of impugned communication dated 05.03.2024:**

*Appearance before the undersigned at the office of DDG (SWR), NCB, Mumbai with respect to enquiry in Cr. No. 04/2024-reg.*

**Subject of impugned communication dated 05.03.2024:**

*Appearance before the DDG (SWR), NCB Mumbai with respect to allegations made by Ms. Sapna Pabbi in NCB Mumbai Cr. No. 16/2020-reg.*

*28. Further, these communications mention a large number of crimes which are the subject of inquiry. It has come during the course of hearing that the applicant was not the Investigating Officer himself in all these crimes but either the Supervisory Officer or associated in investigation in some other capacity. Further, none of these communications contain a whisper that the*



*inquiry is against the applicant. No doubt, the voluminous documents on record, in fact they number 1065 pages, give sufficient evidence that the applicant would have substantial involvement/role in the subject. Further, we also find that there is no direct mention of Mr. Sanjay Kumar Singh, the officer heading the SET even though the learned counsel for the applicant has submitted that reference to a particular officer in the Writ Petition before the Honble High Court of Bombay, in fact, refers to Mr. Sanjay Kumar Singh. However, the same cannot be a ground for us to make a logical presumption that it is, in fact, Mr. Sanjay Kumar Singh. Moreover, learned Sr. CGSC has categorically stated in the court and reiterated it time and again that the inquiry is 90% complete and is awaiting only the presence of the applicant; there is no cause for us to disbelieve the same even though the learned counsel for the applicant may have contested it.*

*29. We find that the learned Sr. CGSC has made this submission on instructions from the officer of the department present in court.*

*30. Be that as it may, in nutshell, what is under challenge is some communications with respect to a preliminary inquiry which has emanated on account of certain criminal cases. It would be premature for us to exercise jurisdiction at this stage by interfering in the matter. Moreover, we would like to make it amply clear that we have not deemed it appropriate to issue notice to the respondents at this stage and obtain their counter reply. We have merely heard the learned counsel for the respondents at great length because he had appeared on advance service. We are also to be guided by the view this Tribunal had held in the orders that were passed in the earlier two OAs.*

*31. It would be appropriate to reproduce the same below :*

**OA No.3722/2022**

*By the present Original Application (OA), the applicant is seeking quashment of the report dated 16.06.2022, which was prepared by the Special Enquiry Team (SET) of which Mr. Gyaneshwar Singh, i.e., the respondent No. 4 herein was the Chairman.*

*2. The applicant is an Indian Revenue Service (IRS) Officer of 2008 batch and currently posted as Additional Commissioner under the Department of Revenue, Ministry of Finance, i.e., the respondent No. 1 herein. Prior to his present posting, he was working as Zonal Director, Narcotics Control Bureau (NCB), Mumbai, Maharashtra.*

*3. The applicant, while working as Zonal Director, NCB, received some information, on the basis of which a raid was conducted at Cordelia Cruise and as a result of it, Crime No. 94/2021 was registered by NCB, Mumbai. From the record, it transpires that certain allegations were made against the applicant in respect of the manner in which he conducted the raid/investigation. Accordingly, the Competent Authority in the NCB formed a SET to enquire into the allegations levelled against the applicant with respect to the aforesaid crime. SET prepared its report and forwarded the same to the Competent Authority. The said Report along with all the documents as annexed therewith, was*



forwarded by the Competent Authority of NCB to Ministry of Home Affairs (MHA), i.e., the respondent No. 3 herein. The said preliminary report, thereafter, along with the draft charge-sheet proposing major penalty in RDA proceedings was forwarded by the MHA on 27.09.2022 to the disciplinary authority of the applicant, i.e., Central Board of Indirect Taxes and Customs (CBIC), the respondent No. 5 herein, for taking necessary action against him. As stated earlier, this SET Report is under challenge in the present OA.

4. The Enquiry Report dated 16.06.2022 prepared by the SET is annexed to this OA as Annexure A/3, page Nos. 96 to 141(1). The Report discloses that it has been prepared by the SET headed by one, Mr. Gyaneshwar Singh, Deputy Director General (DDG), Northern Region, NCB, i.e., the respondent No. 4 herein. At the relevant point of time, i.e., when Crime No. 94/2021 was registered, respondent No. 4 was working as DDG, Northern Region, NCB, and one, Mr. Ashok Mutha Jain was working as DDG, South-West Region, NCB. Since, Mr. Ashok Mutha Jain was on leave for the period between 04.10.2021 and 08.10.2021 with prefixes and suffixes (on 02-03.10.2021 and 09-10.10.2021), the additional charge to look after the work of DDG, South-West Region, NCB was assigned to Mr. Gyaneshwar Singh, DDG, Northern Region, NCB, i.e., the respondent No. 4 herein.

5. The above referred crime was registered in the evening of 02.10.2021. It is the case of the applicant that the respondent No. 4, in his capacity as in-charge DDG of South-West Region, NCB actively supervised the investigation under the aforesaid crime. In support of his contention, the applicant relies upon the WhatsApp chat between himself and respondent No. 4, which is annexed as Annexure- A/21 to the OA. It is the specific contention of the applicant that respondent No. 4 prepared the plan of action in respect of investigation of the crime in question and forwarded it to him through WhatsApp on 12.10.2021 (copy of the plan of action is annexed along with the OA). In short, the applicant contends that though he was investigating Crime No. 94/2021, respondent No. 4 was supervising the investigation and giving instructions to him from time to time. It is also the contention of the applicant that respondent No. 4 was actively connected with the investigation of Crime No. 94/2021 of NCB, Mumbai and despite this, an enquiry was ordered under his Chairmanship for the procedural lapses on the part of officials during the seizure and follow up action in connection with the said crime. The applicant submits that respondent No. 4 could not have been the judge of his own cause and, therefore, the SET report which is impugned in this OA deserves to be quashed and set aside on the ground of violation of the principles of natural justice.

6. Mr. Hanu Bhaskar, learned counsel for the respondents, on the contrary, contends that the impugned SET report is only preliminary in nature and giving a hearing to the applicant by SET is neither required nor necessary. The learned counsel further contends that the report prepared by the SET of respondent No. 2, i.e., NCB, was sent to respondent No. 3, i.e., MHA, which, in turn, sent the report along with the draft chargesheet to respondent No. 5, i.e., CBIC. Learned counsel for the respondents further submits that it is for respondent No. 5, i.e., CBIC to take independent decision on the basis of this report, and there is no question of prejudice being caused to the applicant. The respondents also contend that on the basis of the



same SET report, which is impugned in the present OA, the Central Bureau of Investigation (CBI) has registered an offence against the applicant, cognizance of which has already been taken by the Court, and the applicant has also challenged the same before the Hon'ble Bombay High Court, wherein some ad interim protection has been given to the applicant. It is the contention of the respondents that in these circumstances, there is no cause of action for the applicant to file an OA or pray for the relief seeking setting aside of the impugned SET report.

7. The OA was placed before us for admission on 19.12.2022. On that day, we issued notice to the respondents. Thereafter, the matter was placed before us on 20.12.2022. After hearing learned counsel appearing for the respective parties, we granted the request of the respondents seeking some time to file affidavit in reply. However, by way of ad-interim relief we directed that before taking any action against the applicant on the basis of the said SET report dated 16.06.2022, the respondent No. 1, i.e. Department of Revenue, Ministry of Finance, shall grant a personal hearing to him.

8. Having gone through the OA and the annexures thereto along with the counter affidavit filed by the respective respondents and rejoinder thereto by the applicant, we find that the applicant in his capacity as Zonal Director, NCB, Mumbai registered Crime No. 94/2021 on 02.10.2021 and investigated the same. One, Mr. Ashok Mutha Jain, DDG, South-West Region, NCB was applicant's senior officer. However, Mr. Ashok Mutha Jain was on leave for the period between 04.10.2021 and 08.10.2021 with prefixes and suffixes (on 02-03.10.2021 and 09-10.10.2021), and his charge for the leave period was given to Mr. Gyaneshwar Singh, DDG, Northern Region, NCB, the respondent No. 4 herein. It is also an admitted fact that respondent No. 4 visited Mumbai on 06.10.2021 and returned to Delhi on 10.10.2021 in connection with the investigation of NCB Crime No. 94/2021. We also find from the WhatsApp chat that the respondent No. 4 was in touch with the applicant from 03.10.2021 to 12.10.2021. It is also pertinent to mention that through this WhatsApp chat respondent No. 4, not only supervised and gave instructions to the applicant in respect of the investigation under NCB Crime No. 94/2021, but also gave the plan of action to him.

9. Respondent No. 4, in our opinion, being actively involved in the investigation could not have been the part of SET, which was constituted to hold an enquiry for the alleged procedural lapses on the part of officials during the seizure and follow up action in connection with the aforesaid crime. However, taking note of the arguments of the respondents that impugned SET report is preliminary in nature and the respondent Nos. 1 or 5 have to take independent decision regarding the action to be taken against the applicant, we are of the opinion that the interest of justice would be subserved by directing the respondent Nos. 1 or 5 to grant personal hearing to the applicant before initiating any action against him on the basis of the impugned SET report and the decision so taken shall be communicated to him by passing a reasoned and speaking order.

10. The OA is disposed of in the aforesaid terms. Pending MA also stands disposed of. No costs.

**OA No 488/2024**



*This OA was initially listed on 12.02.2024 when at the request made on behalf of the applicant, the matter was deferred to 13.02.2024. On 13.02.2024, the matter was deferred to 29.02.2024, however, the Tribunal ordered for deferring the subject inquiry in the meantime. On 29.02.2024, after hearing at length, the matter was re-notified for today i.e. 04.03.2024 at the request of learned counsels for the parties.*

*2. By way of the captioned OA, the applicant, an IRS Officer, has prayed for the following reliefs:*

- "(i) Quash the communications dated 11.08.2023, 14.08.2023 and notice for appearance dated 21.11.2023 and all consequential actions arising therefrom being vitiated and manifested with ill intentions and mala fides attributable to Respondent No. 4 as the said communications have arisen out of the several complaints/allegations which led to the final conclusion of the SET report and its further segregation into 3 SET reports wherein the order/s passed by this Hon'ble Tribunal is applicable;*
- (ii) Quash and set aside the impugned second and third SET reports mentioned in the affidavit of the Respondent no. 4 filed before this Hon'ble Tribunal in OA no.-3722 of 2022 which has arisen out of the SET report dated 16.6.2022 issued by the Respondents;*
- (iii) Direct the Respondent no. 2, 3 and 4, their servants, agents and officials to cease and desist from proceeding against the Applicant in any manner apropos the following, viz; communication dated 11.08.2023, 26 O.A. No. 1033/2024 Administrative entre 14.08.2023, notice for appearance dated 21.11.2023 and the second and third SET reports mentioned in the rejoinder affidavit filed by the Respondent no. 4 without following the Orders of this Hon'ble Tribunal; and*
- (iv) to place on record a copy of the said second and third SET reports mentioned in the affidavit of the Respondent no. 4 filed before this Hon'ble Tribunal in OA no.-3722 of 2022 which has arisen out of the SET report dated 16.6.2022 issued by the Respondents;*
- (v) To supply to the Applicant a copy of the said second and third SET reports mentioned in the affidavit of the Respondent no. 4 filed before this Hon'ble Tribunal in OA no. - 3722 of 2022 which has arisen out of the SET report dated 16.6.2022 issued by the Respondents;*
- (vi) Direct that the Respondent no. 4 be removed from all enquiries which has been initiated against the applicant apropos any of the cases mentioned in the aforementioned impugned communications and notice for appearance of the applicant.*
- (vii) For any further reliefs as this Hon'ble Tribunal may deem fit and proper as per the facts and*



*circumstances of the present case and in furtherance of the above prayers.*

#### **9. INTERIM RELIEF**

*Pending decision in O.A., this Hon'ble Tribunal may graciously be pleased to Stay the Operation and Effect of the following, viz; (i) communication dated 11.08.2023, (ii) communication dated 14.08.2023, (iii) notice for appearance dated 21.11.2023 & 07.02.2024 and (iv) the operation and effect of the second and third SET reports mentioned in the rejoinder affidavit filed by the Respondent no. 4 before this Hon'ble Tribunal in OA no.-3722 of 2022 which has arisen out of the SET report dated 16.6.2022 issued by the Respondents, by way of *ex parte ad interim order*."*

3. *Learned counsels for the parties have taken us to various documents annexed with the present OA including an order dated 21.08.2023 of a Co-ordinate Bench of this Tribunal in OA No. 3722/2022, filed by the present applicant only. Learned counsels have also taken us to an order/judgment dated 27.02.2024 of the Hon'ble High Court of Delhi in WP(C) No. 2873/2024 vide which the Writ Petition filed by the respondents against order dated 21.08.2023 of the Tribunal in OA No. 3722/2022 was challenged.*

4. *We have gone through the impugned communications dated 11.08.2023, 14.08.2023 and one notice for appearance dated 21.11.2023. It is not in dispute that the impugned communications dated 11.08.2023 and 14.08.2023 are not addressed to and/or issued to the applicant. They are on the subject "Enquiries in the matters: (1) PE in the Crime No. 56/2021 and 61/2021 of Mumbai Zonal Unit; (2) PE in the Crime No. 24/2020 of Mumbai Zonal Unit." However, Sh. Ajesh Luthra, learned counsel for the applicant submits that the inquiries referred to in these communications relate to investigation made by the applicant while working with the Narcotics Control Bureau (NCB) i.e. respondent no. 2 at Mumbai and as a result of complaint from one person referred to in impugned communication dated 14.08.2023 one of whose close relative was arrested by the present applicant in some other case. He further submits that the impugned notice dated 21.11.2023 requires appearance of the applicant before Deputy Director General (DDG), South West Region (SWR), NCB in Cr No. 04/21 of NCB, Mumbai Zonal Unit.*

5. *Learned counsel for the applicant submits that the applicant is having bonafide apprehension of being illegally framed and/or implicated in any false case by way of the so called inquiry by respondent no. 4 under whose supervision and guidance, the applicant was working with respondent no. 2 at the relevant time.*

6. *At the outset, Sh. Hanu Bhaskar, learned Senior Central Government Standing Counsel, under instructions from the officers from the office of the respondents and present with him in the court, submits that the apprehension of the applicant is baseless inasmuch as respondent no. 4 i.e. Sh. Gyaneshwar Singh, DDG under respondent no. 2 is neither a Member nor the Head of the inquiry team for the relevant*



inquiries. These impugned communications have been simply signed by him in order to communicate the order(s) of the competent authority in the matter in his capacity as CVO of respondent no. 2. He further clarifies that he is not even the competent authority in respect of the applicant to take any decision with regard to the service discipline of the applicant. He further clarifies that respondent no. 4 is neither the Appointing Authority nor Disciplinary and/or Appellate Authority. Sh. Bhaskar, learned counsel further submits that merely for the reason that the applicant is having an apprehension, the OA is not maintainable. He argues that the OA is premature inasmuch as no final order or any coercive action has been taken by the respondents against the applicant in any manner. He, under instructions, further submits that respondent no. 4 is not going to be a Member of any inquiry referred to in the impugned communications/notice against the applicant and in respect of the findings which find place in these communications.

7. During pendency of the OA, the applicant has filed the captioned Miscellaneous Application, i.e. MA No. 831/2024 vide which the applicant has prayed for taking amended memo of parties on record inasmuch as the applicant seeks impleadment of one Sh. Sanjay Singh, DDG, NCB, R.K. Puram, New Delhi 110066 as one of the respondents and seeking amendment in the relief clause by incorporating relief under paragraph 8 (vi) which reads as under:

"(vi) Direct that the Respondent no. 4 & 6 (as per the amended memo of parties) be removed from all the impugned enquiries which has been initiated against the applicant in relation to any of the cases mentioned in impugned communications and notice for appearance of the applicant issued by the Respondent no. 2."

8. After arguing for some time, in the facts and circumstances of the case, under instructions, Sh. Luthra, learned counsel for the applicant seeks permission to withdraw the present MA with liberty to the applicant to agitate his grievances, if any, in accordance with law, in separate proceedings, if so advised.

9. Learned counsel for the applicant submits that the OA may be disposed of in terms of the aforesaid statement of the respondents through their learned counsel.

10. In view of the above, the OA stands disposed of in view of the statement made on behalf of the respondents through their learned counsel as recorded hereinabove. The respondents shall be bound by their statement, recorded hereinabove.

11. In the facts and circumstances of the case, there shall be no order as to costs.

32. However, it would be very pertinent to go through the orders passed by the Hon'ble High Court of Delhi in Writ Petition No 3404/2024. The said order reads as under :



1. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 21.08.2023 passed by the learned Central Administrative Tribunal in O.A. No. 3722/2022 insofar as it does not quash the findings of the Special Enquiry Team (SET) which enquiry was held under the chairmanship of the respondent no. 4.

2. After some arguments, learned senior counsel for the petitioner, on instructions from the petitioner, submits that instead of pressing the present petition, the petitioner would be satisfied if this Court were to clarify that the findings of the SET will not be used against the petitioner in the departmental enquiry proposed to be held against him.

3. Learned counsel for the respondents can have no objection to this limited request as it is trite law that the findings of a preliminary enquiry cannot be used for indicting an employee in a departmental enquiry. Furthermore, we find that the learned Tribunal has already clarified this aspect in para 9 of its order dated 21.08.2023 which reads as under:-

"9. Respondent No. 4, in our opinion, being actively involved in the investigation could not have been the part of SET, which was constituted to hold an enquiry for the alleged procedural lapses on the part of officials during the seizure and follow up action in connection with the aforesaid crime. However, taking note of the arguments of the respondents that impugned SET report is preliminary in nature and the respondent Nos. 1 or 5 have to take independent decision regarding the action to be taken against the applicant, we are of the opinion that the interest of justice would be subserved by directing the respondent Nos. 1 or 5 to grant personal hearing to the applicant before initiating any action against him on the basis of the impugned SET report and the decision so taken shall be communicated to him by passing a reasoned and speaking order".

4. In the light of the aforesaid, the writ petition along with all accompanying applications is disposed of as not pressed by clarifying that the evidence recorded in the SET will not be relied upon in the departmental enquiry which may be held against the petitioner as per law.

33. What is before us is an SET, conducting a preliminary inquiry into certain allegations with respect to investigation into certain crimes registered in NCB Mumbai. The Hon'ble High Court had clearly said that "it is trite law that the findings of a preliminary enquiry cannot be used for indicting an employee in a departmental enquiry". The Honble High Court while giving this categorical finding had relied upon para 9 of the judgment of this Tribunal which already finds mention above.

34. Therefore, we dispose of this OA strictly in terms of the directions of the Hon'ble High Court in the aforesaid Writ Petition by directing that the evidences recorded during the course of the preliminary inquiry, conducted by the SET, which is the subject of the present OA, will not be relied upon in any further departmental inquiry/disciplinary proceedings, if they were to be held in accordance with the rules governing disciplinary



proceedings. Pending MA, if any, also stands disposed of accordingly."

2.15 It is also stated that despite the aforesaid directions of this Tribunal, as noted above, still the respondents had directed NCB and CBI to initiate an enquiry which is completely based on the evidences recorded by the earlier preliminary enquiry under the SET, which is totally absurd and against the order of this Tribunal and further shows the highhandedness of the respondents by not considering the order of this Tribunal in true latter and spirit.

2.16 Hence, the applicant has filed the instant OA challenging the impugned Charge Memorandum No. 30/2025 dated 18.08.2025 (**Annexure A/1**) issued to the applicant.

3. While hearing this matter on 27.08.2025, this Tribunal stayed the aforesaid impugned Charge Memorandum dated 18.11.2025, the relevant portion of the said Order reads as under:-

*"The applicant, in the present OA, challenges the charge memorandum dated 18.08.2025, whereby the following articles of charge have been framed against him:*

#### ***Article of Charge 1***

*That Shri Sameer Wankhede, despite having been formally detached from the Narcotics Control Bureau on 02.01.2022 and hence with no mandate relating to investigation of Case No. 94/2021 (NCB), wilfully and deliberately sought sensitive and confidential information from Shri. Japan Babu, the then Departmental Legal Advisor (DLA) of NCB, on 02.06.2022, as evidenced by the telephonic transcript filed by the officer himself before the Hon'ble High Court of Bombay (Annexure-12, Affidavit-in-Rejoinder dated 07.06.2023).*

*By the aforesaid acts of commission and omission, Shri Sameer Wankhede, Ex Zonal Director, Narcotics Control Bureau (NCB), Mumbai, has failed to maintain absolute integrity at all times; behaved in a way which is unbecoming of a Government servant; failed to*



*maintain high ethical standards and honesty; failed to refrain from doing anything which is or may be contrary to any law, rules, regulations and established practices; failed to perform and discharge his duties with the highest degree of professionalism and dedication to the best of his abilities and has thereby contravened Rules 3(1)(i), 3(1)(iii), 3(1)(vi), 3(1)(xviii) and 3(1)(xxi) of the Central Civil Services (Conduct) Rules, 1964.*

#### *Article of Charge 2*

*That Shri Sameer Wankhede obtained an assurance from DLA of NCB so as to steer the investigation of NCB case no. 94/2021 towards a predetermined outcome for ulterior motive. The extract of transcript of recorded conversation reveals that DLA refers to a prior ??? (gada) or promise - "???? ??????? ?? ?? ????" - that suggests some assurance having been sought earlier.*

*This prior assurance in any criminal investigation raises serious doubts about its fairness and integrity. Shri Sameer Wankhede, being the supervisory officer, was expected to conduct investigation in a fair and transparent manner to unearth the truth. By obtaining assurance from DLA towards a premeditated outcome, he appears to have failed to maintain absolute integrity.*

*By the aforesaid acts of commission and omission, Shri Sameer Wankhede, Ex Zonal Director, Narcotics Control Bureau (NCB), Mumbai, has failed to maintain absolute integrity at all times; behaved in a way which is unbecoming of a Government servant; failed to maintain high ethical standards and honesty; failed to perform and discharge his duties with the highest degree of professionalism and dedication to the best of his abilities and has thereby contravened Rules 3(1)(i), 3(1)(iii), 3(1)(vi) and 3(1)(xxi) of the Central Civil Services (Conduct) Rules, 1964.*

*It is not in dispute that the impugned charge memorandum premised upon very material and evidence which the applicant himself had placed before the Hon'ble Bombay High Court in Criminal Writ Petition No.9645/2023, in which an interim stay has already been granted in his favour. Thus, the matter is sub judice before the Hon'ble Bombay High Court.*

*In the above circumstances, we issue notice to the respondents. Mr. Hanu Bhaskar, learned counsel, accepts notice for the respondents.*

*By way of interim measure, we direct the respondents not to proceed further with the departmental enquiry initiated against the applicant, pursuant to the impugned charge memorandum, till the next date of hearing."*



4. The aforesaid interim order dated 27.08.2025 passed by this Tribunal in the instant case was challenged by the respondents before the Hon'ble High Court of Delhi by way of Writ Petition (Civil) No.339/2026 and the Hon'ble High Court of Delhi vide Order/Judgment dated 12.01.2016 disposed of the said Writ Petition with the following observations:-

*"1. Through the present Writ Petition filed under Article 226 of the Constitution of India, the Petitioners assail that correctness of interim order dated 27.08.2025 (hereafter 'impugned order'), passed by the Central Administrative Tribunal in O.A./3258/2025, whereby further proceedings in the departmental enquiry initiated against the respondent pursuant to the charge memorandum were stayed.*

*2. At the time of hearing, it has been disclosed that the subject Original Application ('O.A.') is coming up for final hearing on 14.01.2026.*

*3. Learned counsel representing the Petitioner submits that the learned Tribunal has erred in staying the departmental proceedings solely on the basis of an interim order passed by the Bombay High Court in Criminal Writ Petition 9645/2023.*

*4. Per contra, learned counsel representing the Respondents submits that since the matter is coming up for final hearing on 14.01.2026, it would be appropriate to request the learned CAT to finally decide the O.A.*

*5. Keeping in view the aforesaid submissions, the petition is disposed of with the consent of the parties with the following directions:*

*i. The learned Tribunal will take up the O.A. and make sincere efforts for disposal of the same on 14.01.2026 itself. In the event that the same is not possible, the learned Tribunal shall endeavor to dispose of the O.A. within the next 10 days from 14.01.2026; and*

*ii. The learned Tribunal will proceed to decide the O.A. uninfluenced by the impugned order."*

5. In this case pleadings are complete, as the respondents have also filed their reply opposing the claim of the applicant and the applicant has also filed his rejoinder refuting the contents of the reply filed by the respondents. Both parties have also filed their written submissions.



6. During the course of hearing, Shri AjeshLuthra, learned counsel for the applicant argued that the impugned Charge Memorandum dated 18.08.2025 is arbitrary, illegal and issued in complete violation of Articles 14 and 16 of the Constitution of India, as the respondents have proceeded mechanically, without application of mind, and without existence of any fresh, cogent or admissible material thereby depriving the applicant of equality before law and equal protection of law.

6.1 Learned counsel also argued that initiation of disciplinary proceedings during the subsistence of binding judicial restraint orders amounts to gross illegality and abuse of power, as this Tribunal, in OA No.4975/2024 earlier filed by the present applicant, granted interim protection restraining coercive steps based on the very same allegations vide order dated 15.04.2025 passed in the said OA. The relevant paras of the said Order read as under:-

*"2. By filing the present OA, the applicant is seeking the following reliefs:*

*"a. Call for the records of the case, including letters dated 21.06.2024, 27.06.2024 (To NCB) and 27.06.2024 (To CBI) issued by the respondents, and further quash and set aside the same and*

*"b. Quash and set aside the decision of respondents regarding the initiation of any kind of inquiry (Preliminary or Regular) by calling upon the records against the applicant related to one Mr. Japan Babu, the Deputy Legal Advisor (DLA)."*

*3. Mr. Luthra, learned counsel for the applicant, places before us the communications dated 02.04.2025 and 03.04.2025 issued by the Directorate General of Vigilance, Indirect Taxes and Customs, to the Pr. Additional Director General, DGTS, Chennai Zonal Unit, GST Bhavan. Copies of the same have been provided to the applicant, directing him to remain present for investigation/inquiry on 15.04.2025 and 16.04.2025.*



4. Learned counsel for the applicant invites our attention to the office order dated 30.09.2005 issued by the Central Vigilance Commission, Government of India, and submits that in cases where the matter is yet to be investigated, CVOs should not undertake a parallel investigation when the local police or the CBI are already seized of the matter. He further submits that the subject matter of the inquiry report and the investigation registered by the CBI are identical. Therefore, the respondents ought not to proceed with the investigation/inquiry under the communications mentioned hereinabove.

5. Mr. Bhaskar, learned counsel for the respondents, submits that the learned counsel for the applicant may place the said communications on record. He further submits that no inquiry is going on against the applicant pursuant to any chargesheet. He argues that, as the said communications have not yet been placed on record, he is unable to make any detailed submissions in this regard.

6. We, accordingly, direct the learned counsel for the applicant to place on record the said communications along with an affidavit with advance copy thereof to the learned counsel for the respondents.

7. In view of the above, we defer the hearing of the matter to 21.04.2025.

8. Meanwhile, by way of an interim measure, it is directed that the presence of the applicant shall not be insisted upon in pursuance of the communications dated 02.04.2025 and 03.04.2025 referred to hereinabove."

6.2 Learned counsel argued that proceeding contrary to the above directions is impermissible and amounts to overreaching the judicial process.

6.3 Learned counsel further argued that as the charges and allegations have not been formally communicated and, therefore, the impugned chargesheet dated 18.08.2025 is vague, indefinite and devoid of any material particulars violative of the provisions of Article 311(2) of the Constitution of India and the principles of natural justice,

6.4 Learned counsel also argued that the impugned memorandum is based on the same facts, allegations and



documents, which are *sub judice* before the Hon'ble Bombay High Court as the applicant enjoys continuing interim protection. Parallel departmental proceedings on identical subject matter constitute double jeopardy of process, contrary to the law laid down by the Hon'ble Supreme Court in a catena of cases, including in **Capt. M. Paul Anthony v. Bharat Gold Mines**, reported in (1999) 3 SCC 679, wherein it has been held that departmental proceedings must be stayed, where criminal allegations involve identical facts and evidence.

6.5 Learned counsel also argued that the respondents failed to comply with principles of natural justice and, due process, as sub-rule 3 and 4 of the Rule 14 of the CCS (CCA) Rules, 1965, has been violated as no witness is cited, no independent supporting document is relied upon, and further no opportunity of hearing was granted prior to issuance of the impugned charge Memorandum.

6.6 Learned counsel also submitted that the impugned proceedings are tainted with malice in fact and law, and have been initiated solely to harass, stigmatise and derail the applicant's service prospects. If one has regard to the sequence of events, it is apparent that every time, the applicant succeeded before various Courts and/or granted relief, even then the respondents initiated another proceeding demonstrating colorable exercise of power, prohibited under Article 14 and settled principles of administrative law.



6.7 Learned counsel also argued that since the impugned Charge Memorandum suffers from non-application of mind and absence of foundational facts, which makes it void *ab initio*. It is settled law that a charge sheet that merely reproduces allegations without material particulars is liable to be quashed as held by the Hon'ble Supreme Court in a catena of decisions, including (i) ***Union of India v. Gyan Chand Chattar***, reported in (2009) 12 SCC 78 and (2) ***Roop Singh Negi v. Punjab National Bank***, reported in (2009) 2 SCC 570.

6.8 Learned counsel further submitted that the impugned Charge Memorandum is violative of the constitutional guarantee of fair treatment under Article 311(2), as from the perusal of the impugned charge Memorandum, it is evident that the same is punitive, pre-determined, and founded on assumptions rather than evidence. The respondents' action prejudges guilt rather than enquiring into it, rendering the proceedings unconstitutional.

6.9 Learned counsel vehemently argued that the entire disciplinary action is unsustainable since it is built solely upon the applicant's own documents filed before the Hon'ble High Court of Bombay, which is unprecedent and contrary to public law norms. If those documents were faulty, the proper forum to determine that issue remains with the Hon'ble High Court, and not the disciplinary authority.

6.10 Learned counsel also argued that in the earlier OA No.4975/2024, the applicant has challenged the three letters



dated 27.06.2024, 21.06.2024 and 27.06.2024 which have been disclosed to the applicant in the counter affidavit filed by the respondents while agitating his grievances for seeking promotion in OA No.2835/2024 (**Annexure A/13**). Learned counsel further submitted that the respondents have directed NCB and CBI to conduct an enquiry against the applicant in relation to NCB case Cr. No. 94/2021 (Cordelia Cruise Case), which has arisen out of the same set of allegations and the complaints received against the applicant by the NCB, whereafter the first SET report dated 16.06.2022 was bifurcated and converted into 3 SET reports by the Respondent no.4. Furthermore, in OA No. 4975/2024, the applicant has also challenged the action of respondent no. 2 vide which the respondents through Directorate of Vigilance, ( DGOV), Mumbai Zonal Unit, has also decided to initiate action against the applicant related to one Mr. Japan Babu, the Deputy Legal Advisor (DLA). Learned counsel contended that the applicant had submitted the recorded transcript of Mr. Japan Babu along with 65-B Certificate before the Hon'ble High Court of Bombay in the aforesaid Writ Petition filed for quashing of false CBI FIR against the applicant. In the transcript/recording, it has clearly emerged that the file noting related to Cordelia Cruise case was changed wherein the name of Mr. Aryan Khan has been dropped. Thereafter, they have filed the chargesheet, which was prepared from "outside" in order to give clean chit to Mr. Aryan Khan in Cordelia Cruise case. It is pertinent to mention here that a criminal defamation case, which was filed against the applicant by



Mr. Japan Babu, was also withdrawn by Mr. Japan Babu on 28.06.2025 (Annexure A/14). All the aforesaid actions are malafide and aimed to unnecessarily harass, humiliates and cause harm in the matter of applicant's career growth and this has been purposefully orchestrated by the respondents in order to cause the applicant mental agony and humiliation.

6.11 It is also submitted that upon notice being issued in OA 4975/2024 on 23.12.2024 (**Annexure A/15**), the respondents sought repeated adjournments for filing their reply. However, during the pendency of the proceedings, the respondents, in a calculated manner, issued further communications dated 02.04.2025 and 03.04.2025 (**Annexure A/16**), calling upon the applicant to record his say in respect of alleged enquiries pertaining to his foreign visits and in respect of the then DLA, Sh. Japan Babu. This Tribunal vide a detailed and speaking interim order dated 15.04.2025 (**Annexure A/17**), was pleased to direct that the personal presence of the applicant shall not be insisted upon in pursuance of the said communications dated 02.04.2025 and 03.04.2025. Interim direction was extended from time to time and continued to operate. Furthermore, during the proceedings held on 08.05.2025 (**Annexure A/18**) before proceeding on merits, this Tribunal specifically directed the respondents to place on record the very letters dated 21.06.2024, 27.06.2024 (to NCB) and 27.06.2024 (to CBI) which formed the foundation of the proposed inquiry against the applicant. Thereafter, this Tribunal, vide its order dated 06.03.2025



**(Annexure A/19)**, has been pleased to specifically record that despite availing as many as four opportunities, the respondents had failed to file their counter reply within the time granted by this Tribunal. In the said circumstances, while showing utmost indulgence, this Tribunal was constrained to grant a further period of two weeks to the respondents to file their reply, making it abundantly clear that in the event of any further default, the reply shall be taken on record only subject to payment of costs of Rs.3,000/-. This categorical observation of this Tribunal makes it manifest that the delay in progress of the said proceedings has been solely attributable to the inaction and non-diligence of the respondents, and not in any manner on account of the applicant, who has been consistently pursuing the matter with utmost sincerity and promptitude, seeking its expeditious adjudication.

6.12 It is also submitted that in defiance and utter disregard of the binding interim protection granted by this Tribunal, the respondents have proceeded to issue a charge memorandum dated 18.08.2025 (Annexure A/1) against the applicant that too on the very same set of allegations which are the subject matter of OA No.4975/2024 in which this Tribunal has already granted interim protection to the applicant. Such an act of the Respondents amounts to directly frustrating and nullifying the protective directions of this Tribunal, thereby overreaching the judicial process.

6.13 Learned counsel reiterated that the impugned Charge Memorandum dated 18.08.2025 is wholly arbitrary and



unsustainable in law, inasmuch as it does not cite even a single witness, who could establish or substantiate the allegations against the applicant. All the documents relied upon therein are admittedly the very records already placed on record by the applicant himself before the Hon'ble Bombay High Court in ongoing judicial proceedings. No fresh or additional material has been brought on record to justify the initiation of the present disciplinary proceedings initiating vide the impugned Charge Memorandum. This clearly demonstrates that the issuance of the impugned Charge Memorandum is a mere mechanical exercise, resting solely on allegations already considered and stayed. Thus, impugned Charge Memorandum is nothing but a repetition of the very same set of allegations, which had already been stayed by this Tribunal in OA No.4975/2025 vide order dated 15.04.2025. As such, the impugned action suffers from arbitrariness, non-application of mind with *malafide* intent, rendering it wholly unsustainable in the eyes of law. Further, the matter concerning such documents is still *sub judice* before the Hon'ble Bombay High Court, and any disciplinary action initiated on the same set of documents, is a mala fide attempt to prejudice and overreach the proceedings pending before the Hon'ble Bombay High Court.

6.14 Learned counsel also reiterated that without prejudice to the above, the impugned Charge Memorandum has been issued in complete violation of the fundamental principles of natural justice. At no point of time, prior to the issuance of the impugned Charge Memorandum, was the applicant either called upon to



submit his say or afforded any opportunity of personal hearing. The respondents, without even seeking an explanation or clarification from the applicant, straightaway proceeded to issue the impugned Charge Memorandum. Such a procedure not only offends the settled principles of *audi alteram partem* but also demonstrates a pre-determined and punitive approach on the part of the respondents. It is a settled proposition of law that any disciplinary proceedings initiated in violation of the principles of natural justice are a nullity in the eyes of law. Therefore, on this ground also, the impugned Charge Memorandum deserves to be quashed and set aside.

6.15 Learned counsel also argued that the respondents' decision to proceed with the departmental case raises concerns about procedural fairness as requiring the applicant to disclose his defence before the department could potentially prejudice his ongoing criminal case. This situation highlights the delicate balance between transparency in departmental proceedings and the protection of an individual's legal rights. It is crucial to ensure that departmental actions do not inadvertently compromise the integrity of the criminal justice system.

6.16 Learned counsel placed reliance on the Order/Judgment of the Hon'ble Delhi High Court in W.P.(C) No.8726/2015, titled ***Union of India vs. Shameem Akhtar*** decided on 11.09.2015 and submitted that the case of the applicant is squarely covered by the said Order/Judgment of the Hon'ble Delhi High Court.



6.17 Learned counsel reiterated that the sequence of events surrounding the issuance of the impugned Charge Memorandum unmistakably demonstrates that the same is not a bona fide exercise of disciplinary jurisdiction, but is rather a product of sheer vendetta and retaliation against the applicant for having successfully pursued his lawful remedies before this Tribunal and the Hon'ble Delhi High Court, which is as under:-

- (i) OA No.2835/2024 filed by the applicant in respect of his promotion was allowed by this Hon'ble Tribunal vide Order/Judgment dated 17.12.2024 directing the respondents to comply with the applicant's rightful claim.
- (ii) When the respondents wilfully failed to implement the said Order of this Tribunal, the applicant was constrained to file a Contempt Petition. Notice in the said contempt petition was issued on 30.04.2025. On 15.07.2025, this Tribunal was pleased to summon the Chairman of CBIC personally owing to the deliberate and contumacious disobedience of its directions.
- (iii) Aggrieved thereby, the respondents approached the Hon'ble Delhi High Court, and the matter was heard at length. Vide order dated 29.07.2025, the Hon'ble High Court of Delhi was pleased to reserve judgment, thus indicating that the applicant's case carried substantial weight.
- (iv) It is immediately, thereafter, and significantly on 18.08.2025, in the course of proceedings before this Tribunal in the pending Contempt Petition, that the respondents, for the very



first time, made a statement that a charge sheet had been issued to the applicant, which is challenged in this case. The above chain of events leaves no doubt that the impugned charge memorandum has no nexus whatsoever with the so-called allegations contained therein, but is directly relatable to the contempt proceeding arising out of the promotion matter. It is submitted that the impugned Charge Memorandum was deliberately engineered and timed as an act of reprisal solely to browbeat the applicant for having obtained favourable orders from this Tribunal and for the fact that the Chairman of CBIC himself had been summoned in the contempt proceedings and the Hon'ble Delhi High Court had reserved its judgment in the matter. Such conduct of the respondents is not only demonstrative of malice in law, but also constitutes abuse of process, being actuated by personal vendetta and designed to harass and prejudice the applicant. The impugned action, therefore, is liable to be declared void *ab initio*, as it has been undertaken not for any legitimate purpose of service discipline, but purely as a retaliatory measure in complete violation of Articles 14 and 16 of the Constitution of India as well as the principles of natural justice.

6.18 Learned counsel also argued that the respondents, with malafide intent, have deliberately sought to convert the Preliminary Enquiry (PE) into a Departmental Enquiry (DE) by issuance of the impugned Charge Memorandum dated 18.08.2025. This device of converting PE into DE is nothing but a colourable exercise of power, designed solely to frustrate and



overreach the interim protection granted by this Tribunal and to render its order nugatory.

6.19 It is further submitted that the very evidence and material which the applicant had himself placed before the Hon'ble Bombay High Court, and on the basis of which the Hon'ble High Court was pleased to grant interim protection in favour of the applicant, has now been selectively extracted and misused by the respondents, as the sole foundation for issuance of the impugned Charge Memorandum dated 18.08.2025. This glaring fact demonstrates the deliberate design of the respondents to punish the applicant by any means, even at the cost of overreaching the judicial process.

6.20 Learned counsel reiterated that if at all there was any infirmity, falsity or impropriety in the transcripts or documents placed by the applicant before the Hon'ble Bombay High Court, the said Hon'ble Court alone is competent to take cognizance thereof in the pending proceedings. The respondents cannot arrogate unto themselves the role of the Hon'ble Court by initiating parallel departmental proceedings on the same evidence, as the same amounts to forum-shopping, colourable exercise of power, and an attempt to prejudice the ongoing judicial determination before the Hon'ble High Court.

6.21 Learned counsel also argued that the impugned Charge Memorandum is a malafide instrument devised to pressurize the applicant into withdrawing his pending Writ Petition before the Hon'ble Bombay High Court, wherein the applicant has fearlessly



exposed the gross illegalities and malpractices of the respondents, particularly, in the matter relating to the clean chit given to Shri Aryan Khan S/o Shri Shahrukh Khan. The impugned Charge Memorandum is a transparent attempt to silence the applicant and discredit him for bringing to light the serious procedural and substantive lapses on the part of the respondents. Significantly, the impugned Charge Memorandum deliberately and conveniently omits reference to crucial parts of the recorded proceedings wherein Shri Japan Babu, the then Deputy Legal Adviser, had categorically stated that the original draft of the charge sheet was changed overnight at the behest of Shri Sanjay Singh, the then Deputy Director General, NCB and SIT Chief. It was further stated that the said charge sheet had, in fact, been prepared from outside sources and that the Director General, NCB went to the extent of altering the official notings to drop the name of Shri Aryan Khan, despite the strong protest registered by Shri Japan Babu himself. The selective omission of such vital facts in the charge memorandum clearly demonstrates that the same is nothing but a shield to cover up the respondents' own culpable conduct while shifting the entire burden onto the applicant. The said Shri Japan Babu subsequently went so far as to withdraw the criminal case that had been instituted against the applicant before the Patiala House Courts, which further corroborates the fact that the applicant has been singled out and targeted as a scapegoat, only to protect the senior officials of the respondent-department, who were themselves directly complicit in the manipulation and



suppression of material evidence in the Aryan Khan case. The deliberate concealment of these facts and the issuance of the impugned charge memorandum in such circumstances is a clear manifestation of arbitrariness, mala fides, and colourable exercise of power.

6.22 Learned counsel also argued that it is a settled proposition, as held by the Hon'ble Supreme Court in a catena of judgments, that where disciplinary proceedings are initiated not with a bona fide intent to enforce discipline, but with the ulterior motive of tarnishing the reputation of an officer, such proceedings stand vitiated on account of mala fides and colourable exercise of power. Applying the said principles to the present case, it is evident that the impugned Charge Memorandum has not been issued for any legitimate purpose of service discipline, but solely to (i) pressurize the applicant into withdrawing his lawful proceedings before the Hon'ble Bombay High Court, (ii) shield senior officials of NCB, who were themselves complicit in the Aryan Khan case, and (iii) retaliate against the applicant for exposing inconvenient truths and obtaining favourable orders in promotion related litigation. This action of issuance of impugned chargesheet is, therefore, nothing but a textbook case of malice in law and is liable to be quashed on this ground alone.

6.23 It is also stated that the very basis of the impugned Charge Memorandum dated 18.08.2025 is a transcript of a telephonic conversation between the applicant and the then Deputy Legal Advisor, Shri Japan Babu. In the said conversation,



Shri Japan Babu had unequivocally stated that the charge sheet filed against Mr. Aryan Khan, son of Shri Shahrukh Khan, had been altered a day prior to its filing and that the same was prepared from outside the office without his knowledge. The said transcript (**Annexure A/20**), therefore, discloses a matter of serious impropriety on the part of the respondents themselves and demonstrates that they have acted in a wholly arbitrary, biased and motivated manner only to extend undue favours to Mr. Aryan Khan, evidently on account of the influence and benefits conferred upon them by Shri Shahrukh Khan.

6.24 Learned counsel further submitted that the very transcript was relied upon by the applicant before the Hon'ble Bombay High Court, on the basis of which the Hon'ble High Court was pleased to grant interim protection in favour of the applicant and thereafter admitted the case for final hearing after recording that the point raised by the applicant was arguable and required judicial determination. However, the respondents, instead of placing the said relevant material before the Hon'ble High Court for adjudication, have chosen to misuse the very same transcript to initiate disciplinary proceedings against the applicant. Such conduct reflects a colourable exercise of power and a clear abuse of authority undertaken with malafide intent to punish the applicant for exposing the arbitrariness, bias and extraneous considerations prevailing in the matter. Thus, this very conduct of the respondents also exposes how corruption and favouritism are sought to be institutionalised within the department. The



transcript categorically reveals that the charge sheet against Mr. Aryan Khan was altered a day prior to its filing despite the categorical refusal of the then DLA, Shri Japan Babu, to permit such alteration. Such manipulations, carried out for extending undue favours, could never have come to light but for the transcript placed on record by the applicant before the Hon'ble High Court. The respondents attempt to now punish the applicant, instead of addressing such misconduct, makes it evident that they themselves have derived undue benefits from Shri Shahrukh Khan to secure a change in the charge sheet of Mr. Aryan Khan.

6.25 At this stage, learned counsel reiterated that after this Tribunal had been pleased to grant interim protection in favour of the applicant, restraining the respondents from insisting upon his participation in the impugned enquiry, the respondents, instead of honouring and abiding by the binding judicial directions, have audaciously proceeded to issue the impugned Charge Memorandum on the very same enquiry proceedings which stood interdicted by the interim order of this Tribunal. Such an act on the part of the respondents is not only a blatant act of judicial indiscipline but also a deliberate attempt to render nugatory and ineffective the orders of this Tribunal. The action of the respondents unmistakably reveals that they are hell-bent upon punishing the applicant by any means whatsoever, even if it requires them to trample upon the majesty of law and openly defy the authority of this Tribunal.



The conduct of the respondents, in converting an interdicted preliminary enquiry into a full-fledged departmental proceeding despite subsisting interim protection, reflects gross malafides, vindictiveness and a colourable exercise of power. The same has been done with the singular objective of tarnishing the reputation and image of the applicant in the eyes of his peers and the public at large, thereby victimising the applicant.

6.26 Learned counsel also argued that this impugned Charge Memorandum itself clearly demonstrates the malafide intention of the respondents in proceeding against the applicant and reflects their contemptuous behaviour, inasmuch as they have deliberately chosen to defy and frustrate the binding interim protection granted by this Tribunal.

6.27 Learned counsel for the applicant also submitted that the CVC advice dated 11.08.2025 (**Annexure A/21**) in respect of the alleged departmental proceedings against the applicant was, on the very same day, mechanically and hurriedly forwarded for further action. The said forwarding order itself conspicuously bears the endorsement "*Urgent-Out-Today*", which unequivocally demonstrates that the respondents were acting under a preconceived determination to inflict punishment upon the applicant. Such extraordinary haste, in circulating the CVC advice on the very date of its receipt, is a classic instance of pre-determination and non-application of mind. The respondents, instead of objectively considering the matter in its proper perspective, have shown an overzealous alacrity that is



incompatible with the settled principles of fairness, reasonableness, and due process. This conduct amounts to a colourable exercise of power, actuated with malafides and extraneous considerations, which the law does not countenance. It is trite law that administrative decisions must be free from arbitrariness, bias and pre-judgment, and must conform to the requirements of natural justice. The undue and unwarranted urgency displayed in this case leaves no manner of doubt that the respondents are “hell-bent” upon penalising the applicant irrespective of the merits of the case. Such action is not a bona fide discharge of official duty but rather a vindictive and predetermined exercise designed to frustrate the applicant’s right to a fair and impartial consideration guaranteed under Article 14 of the Constitution.

6.28 Learned counsel submitted that in the aforesaid facts and circumstances of the case, the applicant had earlier approached before this Tribunal by way of M.A. No. 3551/2025 as well as C.P. No. 672/2025, *inter alia*, seeking interim protection against the operation of the impugned Charge Memorandum dated 18.08.2025 and for initiation of contempt proceedings against the respondents. This Tribunal, upon consideration, was pleased to issue notice on 21.08.2025 in both applications. Thereafter, on 25.08.2025 (**Annexure A/22**), upon hearing both sides, this Tribunal was pleased to grant an interim stay of ten (10) days commencing from 25.08.2025. It is pertinent to underscore that the said M.A. and C.P. were not withdrawn on merits but were



permitted to be withdrawn, with liberty expressly reserved to the applicant to institute a substantive and independent OA challenging the impugned Charge Memorandum dated 18.08.2025. Hence, the present OA is being instituted strictly in pursuance and in conformity with the liberty so granted by this Tribunal.

6.29 Lastly, learned counsel argued that such conduct of the respondents, in deliberately issuing a charge memorandum in teeth of the interim directions of this Tribunal, amounts to willful disobedience and gross contempt of the binding judicial orders. It constitutes a conscious interference with the due course of administration of justice and has the inevitable effect of lowering the authority, dignity and sanctity of this Tribunal.

7. *Per contra*, Shri Ravi Prakash, learned Senior Counsel appearing for the respondents opposed the instant OA and at the outset, raised the legal submissions, as in the instant OA, applicant is challenging the Charge Memorandum dated 18.08.2025 (**Annexure A/1**):

- (i) Departmental enquiry should not be entertained at preliminary stage and submitted that a departmental enquiry ought not to be interdicted at the nascent stage of issuance of a charge-sheet, particularly, when the applicant has admittedly not even submitted his reply thereto. The delinquent employee is required, in the first instance, to submit his explanation and raise all permissible factual and legal defences before the disciplinary authority. Premature judicial interference at the stage of issuance of a charge-sheet, in the absence of any exceptional circumstances such as lack of jurisdiction or patent illegality, is wholly



unwarranted and contrary to the well-established principles governing service jurisprudence, as it would amount to stalling the statutory disciplinary process before it is even set in motion. In support of above contention, reliance is placed on the decision of the Hon'ble Supreme Court in the case of ***Union of India v. Ashok Kacker***, reported in 1995 Supp (1) SCC 180 (Para 4).

- (ii) Charge-Sheet not amenable to interference except in exceptional cases and submitted that charge-sheet or show-cause notice in disciplinary proceedings is not ordinarily amenable to challenge, as it does not, by itself, adversely affect any right of the delinquent officer; it can only be interfered in exceptional cases. In support of above contention, reliance is placed on the decision of the Hon'ble Supreme Court in the case of ***Defence v. Prabhash Chandra Mirdha***, reported in (2012) 11 SCC 565 (Para 12) and ***Ruchika Rai Madan v. Directorate of Education***, reported in 2023 SCC OnLine Del 7205 (Para 14).
- (iii) Learned Senior counsel also submitted that mere pendency of civil or criminal proceedings on the same or similar issues does not operate as a bar to the initiation or continuation of disciplinary proceedings, as the authority to take departmental action vests exclusively in the disciplinary authority and not in a civil or criminal court. In the absence of any such stay, the disciplinary authority is fully entitled to exercise its lawful powers and proceed in accordance with law. In support of this contention, reliance is placed on the decision of the Hon'ble Supreme Court in the case of ***Jang Bahadur Singhv. Brij Nath***, reported 1968 SCC OnLine SC 52 (Para 3)

7.1 Learned senior counsel for the respondents also drew our attention to the sequence of events of this case, which is as under:-



- (i) In September, 2008, the applicant joined the service as an IRS Officer; currently serving as Additional Director in DGTS, Chennai.
- (ii) In August, 2020, the applicant herein had joined NCB on loan basis and served as Zonal Director, NCB.
- (iii) On 02.10.2021, a secret information was received by the Mumbai Zone, NCB on 02.10.2021, regarding consumption of narcotic substances, accordingly a team was constituted by the applicant to carry out search and seizure proceedings at Green Gate, Mumbai Port Trust and Cordelia Cruise. After carrying out search and seizure NCB Case No. 94/2021 (Cordelia Cruise ship) was formally registered.
- (iv) On 23.10.2021, a signed affidavit was brought to the Notice of NCB (page 344 of the OA) wherein it was alleged that the accused persons facilitated a conspiracy to extort Rs.25 crores (subsequently settled at Rs.18 crores) from the family of an accused in the said case (at page 186 of the OA).
- (v) On 02.01.2022, the applicant was formally detached from the NCB.
- (vi) In June, 2022, the Ministry of Home affairs, NCB, vide its office order dated June, 2022 constituted a Special Enquiry Team (SET) in order to conduct a separate enquiry in C.R. No. 94/2021.
- (vii) On 16.06.2022, the final report of the SET, headed by Shri Gyaneshwar Singh, was submitted before the CBIC, alleging procedural lapses by the applicant in investigation of the Cordelia Cruz case.
- (viii) On 20.12.2022, the applicant challenged the SET report dated 16.06.2022 before this Tribunal in OA No.3722/2022.



- (ix) On 11.05.2023, a regular case bearing No.RCI217/2023/A/0008 was registered by the Central Bureau of Investigation (CBI) under Section 7, Section 7A and Section 12 of the Prevention of Corruption Act, 1988 read with Section 120B and Section 388 of the Indian Penal Code, 1860 against various accused persons, including the Respondent. It was *inter alia* alleged that during the investigation of NCB Case No. 94/2021 (Cordelia Cruise case), the accused persons abused their official position and acted in criminal conspiracy with private individuals. It was further alleged that the accused persons facilitated a conspiracy to extort Rs.25 crores (subsequently settled at Rs.18 crores) from the family of an accused in the said case, with Rs.50 lakhs allegedly received as bribe.
- (x) On 17.05.2023, against the aforesaid Regular Case, the applicant herein preferred a criminal writ petition, being W.P. (Crl.) No.417/2023, before Hon'ble Delhi High Court. The same was withdrawn vide order dated 17.05.2023.
- (xi) On 19.05.2023, the applicant preferred another writ petition, being W.P. (ST) No. 9645/2023, titled **Sameer Danyadev Wankhede v. Union of India & Ors.**, before the Hon'ble High Court of Bombay challenging the registration of Regular Case No. RCI217/2023/A/0008 dated 11.05.2023. The Hon'ble High Court directed that no coercive action be taken against the applicant by the CBI. Pertinently, there is no stay on the investigation.
- (xii) On 07.06.2023, a call transcript of the applicant with one Shri Japan Babu, Departmental Legal Advisor, NCB, dated 02.06.2022, at page 103 of the OA, was filed by the applicant along with the rejoinder in OA W.P.(ST) No. 9645/2023. A bare perusal of the said transcript reveals



that despite his de-attachment from NCB, the applicant attempted to extract official and confidential information and sought assurances from the DLA, NCB to manipulate and steer the investigation in a manner suited to him. The said telephonic conversation clearly demonstrates an attempt on the part of applicant to influence the investigation in NCB Mumbai Case No. 94/2021, which squarely pertained to proceedings conducted under the Mumbai Zonal Unit of NCB.

- (xiii) On 21.08.2023, this Tribunal vide Order dated 21.08.2023 allowed the said OA holding that Shri Gyaneshwar Singh could not have been part of the SET, as he supervised the original investigation. Hence, the SET findings were vitiated.
- (xiv) On 12.12.2024, the applicant filed OA No.4975/2024 challenging three letters dated 21.06.2024, 27.06.2024, and 27.06.2024, disclosed for the first time in the counter affidavit in OA No. 2835/2024 (Annexure A/13) (regarding promotion), whereby the respondents directed NCB and CBI to conduct an enquiry against the applicant in relation to NCB Cr. No.94/2021 (Cordelia Cruise Case). The prayer sought in OA No. 4975/2024 are as under:
  - a) Call for the records of the case including letters dated 21.06.2024, 27.06.2024 (To NCB) and 27.06.2024 (To CBI) issued by the respondents and further quash and set aside the same and
  - b) Quash and set aside the decision of respondents regarding initiation of any kind of inquiry (Preliminary or Regular) by calling upon the records against the applicant related to one Mr. Japan Babu, the Deputy Legal Advisor (DLA).



- (xv) On 23.12.2024, this Tribunal vide its order dated 23.12.2024 issued notice in OA No. 4975/2024.
- (xvi) On 02/03.04.2025, Directorate General of Vigilance, Indirect Tax and Customs issued communication calling upon the applicant to record his response in relation to alleged enquiries concerning his foreign visits and initiation of departmental enquiry.
- (xvii) On 15.04.2025, by interim order dated 15.04.2025, this Tribunal directed that the personal presence of the applicant shall not be insisted upon pursuant to communications dated 02.04.2025 and 03.04.2025.
- (xviii) On 08.07.2025, the Hon'ble Bombay High Court, vide order dated 08.07.2025, made absolute the ad-interim relief granted earlier vide order dated 19.05.2023.
- (xix) On 18.08.2025, on the basis of the call transcript placed on record by the applicant in rejoinder filed before the Hon'ble High Court of Bombay in W.P. (ST) No. 9645/2023, a fresh Charge Memorandum dated 18.08.2025 was issued to the applicant.
- (xx) On 25.08.2025, above noted Contempt Petition and Miscellaneous Application, bearing No.C.P. 672/2025 and MA No. 3541/2025 in O.A. No. 4975/2024, were preferred by the applicant against the issuance of Charge Memorandum dated 18.08.2025. However, the same were withdrawn.
- (xxi) On 27.08.2025, this Tribunal vide its order dated 27.08.2025 granted a stay on Charge Memorandum dated 18.08.2025.

7.2 Learned senior counsel also argued that the applicant has preferred present Original Application against the Charge Memorandum dated 18.08.2025 issued by the respondents for



misconduct, namely, attempt to influence investigation, and unauthorised extraction of official and confidential information, as the Charge Memorandum dated 18.08.2025 emanates from the call transcript filed by the applicant before Hon'ble High Court of Bombay in W.P. (ST) No. 9645/2023 along with rejoinder. As such the Charge Memorandum dated 18.08.2025 is independent of the regular case registered by the CBI bearing RC No. RCI217/2023/A/0008 wherein it was *inter alia* alleged that, during the investigation of NCB Case No.94/2021 (Cordelia Cruise case), the accused persons abused their official position and acted in criminal conspiracy with private individuals. It was further alleged that the accused persons facilitated a conspiracy to extort Rs.25 crores (subsequently settled at Rs.18 crores) from the family of an accused in the said case, with Rs.50 lakhs allegedly received as bribe. Therefore, the Charge Memorandum dated 18.08.2025 is founded on a distinct, independent and subsequent misconduct, wholly unconnected with the CBI bearing RC No. RC/217/2023/A/0008. The gravamen of the said charge pertains to (1) an attempt to influence and interfere with the course of investigation, and (ii) unauthorised extraction, access and misuse of official and confidential information, by the applicant even after formal detachment from NCB on 02.01.2022, which constitute serious and standalone acts of misconduct under the applicable Conduct Rules.

7.3 Learned Senior Counsel also submitted that this Tribunal vide order dated 15.04.2025 passed in O.A. NO.4975/2024 was



confined only to the extent of not insisting the personal presence of the applicant pursuant to letter dated 02.04.2025 and 03.04.2025 and did not interdict the disciplinary jurisdiction of the competent authority in any manner.

7.4 It is also submitted that the applicant's contention that the issues raised in the present o.A. already stand stayed by this Tribunal vide order dated 15.04.2025 is misleading, factually incorrect, and contrary to the record.

7.5 It is also submitted that mere pendency of civil or criminal proceedings on the same or similar issues does not operate as a bar to the initiation or continuation of disciplinary proceedings, as the authority to take departmental action vests exclusively in the disciplinary authority and not in a civil or criminal court. In the absence of any such stay, the disciplinary authority is fully entitled to exercise its lawful powers and proceed in accordance with law. In support of above submission, reliance has been placed on the decision of the Hon'ble Supreme Court in the case of ***Jang Bahadur Singh v. Brij Nath***, reported in 1968 SCC OnLine SC 52 (Para 3).

7.6 It is further submitted that the applicant has preferred present original Application against the Charge Memorandum dated 18.08.2025 issued by the respondents for misconduct including deliberately seeking sensitive and confidential information after being formally de-attached from NCB and obtaining assurances from DLA of NCB so as to steer investigation of NCB No. 91 of 2021 for ulterior motive.



7.7 It is also submitted that it may be noted that Rule 14(2) of the CCS (CCA) Rules, 1965 stipulates that the disciplinary authority can initiate disciplinary proceedings upon forming opinion that there exist grounds for inquiring into the truth of the alleged imputation of misconduct or misbehaviour, based on any material available on record, Rule 14(2) of CCS (CCA) Rules reads as under:

*"(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government servant, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof."*

In terms of the said Rule, the respondents issued the Impugned Charge Memorandum dated 18.08.2025 based on the call transcript filed by the applicant himself before Hon'ble High Court of Bombay in W.P. (ST) No.9645/2023 along with Rejoinder. Pertinently, the said petition before the Bombay High Court was filed by the applicant seeking quashing of the CBI bearing RC No. RC217/2023/A/0008. The call transcript placed on record by the applicant before the Hon'ble High Court of Bombay clearly reveals that, despite having been detached from the NCB on 02.01.2022 and having no official role or authority in relation to Case No. 94/2021, the applicant nevertheless approached the then Departmental Legal Advisor, an officer actively associated with the said case, and sought access to sensitive and privileged information and further attempted to influence and steer the course of investigation in a manner



tailored to his personal interests, thereby evidencing unauthorised interference and misuse of official channels wholly extraneous to his duties. On the basis of this material available with the respondents that the said Charge Memorandum was issued to the applicant.

7.8 It is also submitted that proceedings pending before Hon'ble Bombay High Court has no relation with the issuance of the said Charge Memorandum as a regular case was registered by the CBI bearing RC No.RC/217/2023/A/0008 wherein it was *inter alia* alleged that, during the investigation of NCB Case No. 94/2021 (Cordelia Cruise case), the accused persons abused their official position and acted in criminal conspiracy with private individuals and that the accused persons facilitated a conspiracy to extort Rs.25 crores (subsequently settled at Rs.18 crores) from the family of an accused in the said case, with Rs.50 lakhs allegedly received as bribe. It is the said case that has been challenged by the applicant before the Hon'ble High Court of Bombay in W.P. (ST) No. 9645/2023. However, the Charge Memorandum dated 18.08.2025 challenged in this OA is founded on a distinct, independent and subsequent misconduct, wholly unconnected with the CBI bearing RC No. RCI217/2023/A/0008. The gravamen of the said charge pertains to (1) an attempt to influence and interfere with the course of investigation, and (ii) unauthorised extraction, access and misuse of official and confidential information, by the applicant even after formal detachment from NCB on 02.01.2022. which constitute serious



and standalone acts of misconduct under the applicable Conduct Rules. Further, the Order dated 19.05.2023 passed by the Hon'ble High Court of Bombay in W.P. (ST) No. 9645/2023 was passed in the peculiar facts of the said case, solely on the statement made by learned counsel for the applicant that the applicant would cooperate with the investigation and appear before the investigating agency as and when required. The relevant portion of the Order dated 19.05.2023 reads as under:

*"7. Considered the submissions. Today the petitioner is before us for a limited relief not to take any coercive action against the petitioner. Learned counsel appearing for the petitioner makes a statement on instructions of the petitioner, present in court, that the petitioner will co-operate with the investigation and attend the office of respondent No.2 at BKC, Mumbai tomorrow a 11.00 a.m. and as and when required.*

*8. Considering that the Petitioner undertakes to appear before the Investigating Agency -Respondent No.2 tomorrow, prima facie, the question of invoking Section 41A(3) and (4) of Cr.P.C. does not immediately arise. As the respondent No.2 seeks time to file affidavit in reply and as we have listed the matter for further hearing on 22/5/2023, in view of the above, in the meantime respondent not to take any coercive action till next date i.e. 22.05.2023. "*

However, the proceedings before this Tribunal in OA No.4975/2024, there is no relation with the issuance of the impugned Order as there is no direction by this Tribunal in O.A. No.4975/2024 staying initiation of departmental enquiry. Rather, vide Order dated 15.04.2025 passed by this Tribunal was confined only to the extent of not insisting the personal presence of the applicant pursuant to letter dated 02.04.2025 and 03.04.2025 and did not interdict the disciplinary jurisdiction of the competent



authority in any manner. Relevant portion of directions passed by this Tribunal in Order dated 15.04.2025 reads as under:

*"8. Meanwhile, by way of an interim measure, it is directed that the presence of the applicant shall not be insisted upon in pursuance of the communications dated 02.04.2025 and 03.04.2025 referred to hereinabove.*

8. We have heard learned counsels for the parties at great length and have also carefully perused the pleadings available on record as well as the judgments on which reliance has been placed by the parties.

### **ANALYSIS**

9. Before considering the substantive legal issues involved in the present matter, it is relevant to briefly set out the exceptional career profile of the applicant, as reflected from the extensive list of awards and commendations placed on record, which has not been disputed by the respondents even in their reply or during the course of hearing. The material/details as quoted above, demonstrates that the applicant has a highly distinguished career in law enforcement spanning the Customs Department, the National Investigation Agency (NIA), the Directorate of Revenue Intelligence (DRI) and the Narcotics Control Bureau (NCB). The applicant's experience is marked by consistent involvement in national security operations, high-stakes financial crime enforcement and inter-agency collaboration. The applicant has been the recipient of significant national and state-level recognitions awarded for professional merit, including: Union Home Minister's Medal for Excellence in Investigation (2021), a prestigious national honour recognising investigative excellence;



Maharashtra Samman (2021), awarded by the Governor of Maharashtra for distinguished public service; and DG DRI Disc Medal (2019), conferred for meritorious contribution in revenue intelligence operations. Further between 2014 and 2017, while serving with the NIA, the applicant played a key operational and intelligence role in several strategic assignments, including establishing a Media Monitoring Cell in Mumbai for surveillance and intelligence generation relating to ISIS and contributing actionable intelligence in the IRF case; intelligence collection and dossier development on the dreaded criminals heading organised crime syndicate; critical investigative support in major terror investigations including the Bijnor blast case and the Bharuch double-murder case; and major seizures relating to Fake Indian Currency Notes (FICN) and illegal arms trafficking, including the interception of 11 pistols with ammunition in Lucknow. The applicant's contributions in safeguarding India's economic and trade frontiers include: participation in a record seizure of 185 kg of gold smuggled by an established syndicate; investigation resulting in the seizure of 8 metric tonnes of illegal shark fins, reflecting commitment to wildlife conservation; and exceptional performance at Mumbai Airport in 2013, recording over 60% growth in revenue realisation and exceeding budget targets by more than Rs.100 crore. Also the applicant's record reflects consistent recognition for leadership, operational proficiency and inter-agency cooperation, including commendations from the NCB for contributions in 2020–21; and successful coordination of



joint operations with the BSF, Marine Preventive teams and the MIDC Police Station in Mumbai.

10. Since the core issue in the present case is to the challenge to impugned Charge Memorandum dated 18.08.2025, before adverting on it with reference to the pleadings and delving upon the issues, we deem it fit to refer some of the decisions of the Hon'ble Supreme Court on this issue.

10.1 The Hon'ble Supreme Court in the case of ***Union of India and another Vs. Kunisetty Satyanarayana***, reported in (2006) 12 SCC 28, has held 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 Ghous [(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."*

10.2 The Hon'ble Supreme Court in the case of ***Transport Commissioner, Madras- Vs. A. Radha Krishna Moorthy***, reported in (1995) 1 SCC 332, has held as under:-



*“7. So far as the truth and correctness of the charges is concerned, it was not a matter for the Tribunal to go into more particularly at a stage prior to the conclusion of the disciplinary enquiry. As pointed out by this Court repeatedly, even when the matter comes to the Tribunal after the imposition of punishment, it has no jurisdiction to go into truth of the allegations/charges **except in a case where they are based on no evidence, i.e., where they are perverse.** The jurisdiction of the Tribunal is akin to that of the High Court under Article 226 of the Constitution. It is power of judicial review. It only examines the procedural correctness of the decision-making-process. For this reason the order of the Tribunal insofar as it goes into or discusses the truth and correctness of the charges, is unsustainable in law.”*

*emphasis supplied)*

10.3 The Hon'ble Supreme Court in the case of **Union of India and others Vs. Upendra Singh**, reported in (1994) 3 SCC 357, has held as under:-

*“5. The said statement of law was expressly affirmed by a seven Judge Bench in Ujjam Bai v. State of UP. The reason for this dictum is self-evident. If we do not keep to the broad and fundamental principles that regulate the exercise of jurisdiction in the matter of granting such writs in English law, the exercise of jurisdiction becomes rudderless and unguided; it tends to become arbitrary and capricious. There will be no uniformity of approach and there will be the danger of the jurisdiction becoming personalized. The parameters of jurisdiction would vary from Judge to Judge and from Court to Court. (Some say, this has already happened.) Law does advance. Jurisprudence does undoubtedly develop with the passage of time, but not by forgetting the fundamentals. You have to build upon the existing foundations and not by abandoning them. It leads to confusion; it does not assist in coherence in thought or action.*

*6. In the case of charges framed in a disciplinary inquiry the tribunal or court can interfere only if on the charges framed (read with imputation or particulars of the charges, if any) no misconduct or other irregularity alleged can be said to have been made out or the charges framed are contrary to any law. At this stage, the tribunal has no jurisdiction to go into the correctness or truth of the charges. The tribunal cannot take over the functions of the disciplinary authority. The truth or otherwise of the charges is a matter for the disciplinary authority to go into. Indeed, even after the conclusion of the disciplinary proceedings, if the matter comes to court or tribunal, they have no jurisdiction to look into the truth of the charges or into the correctness of the findings recorded by the disciplinary authority or the appellate authority as the case may be. The function of the court/tribunal is one of judicial review, the parameters of which are repeatedly laid down by this Court. It would be sufficient to quote the decision in H.B. Gandhi, Excise and Taxation Officer-cum-Assessing Authority, Karnal v. Gopi Nath & Sons. The Bench comprising M.N. Venkatachaliah, J. (as he then was) and A.M. Ahmadi, J., affirmed the principle thus: (SCC p.317, para 8)*



*"Judicial review, it is trite, is not directed against the decision but is confined to the decision-making process. Judicial review cannot extend to the examination of the correctness or reasonableness of a decision as a matter of fact. The purpose of judicial review is to ensure that the individual receives fair treatment and not to ensure that the authority after according fair treatment reaches, on a matter which it is authorized by law to decide, a conclusion which is correct in the eyes of the Court. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It will be erroneous to think that the Court sits in judgment not only on the correctness of the decision making process but also on the correctness of the decision itself."*

7. Now, if a court cannot interfere with the truth or correctness of the charges even in a proceeding against the final order, it is understandable how can that be done by the tribunal at the stage of framing of charges? In this case, the Tribunal has held that the charges are not sustainable (the finding that no culpability is alleged and no corrupt motive attributed), not on the basis of the articles of charges and the statement of imputations but mainly on the basis of the material produced by the respondent before it, as we shall presently indicate."

10.4 In the case of **Secretary, Ministry of Defence and Others vs. Prabhash Chandra Mirdha**, (2012) 11 SCC 565, the Hon'ble Supreme Court has held that ordinarily a writ petition does not lie against the charge-sheet or a show cause notice, as it does not give rise to any cause of action unless the same has been issued by an authority not competent to initiate departmental proceedings. The Supreme Court has laid down the law in this regard by relying on several previous decision, in the following terms:-

*"10. Ordinarily a writ application does not lie against a charge sheet or show cause notice for the reason that it does not give rise to any cause of action. It does not amount to an adverse order which affects the right of any party unless the same has been issued by a person having no jurisdiction/competence to do so. A writ lies when some right of a party is infringed. In fact, charge sheet does not infringe the right of a party. It is only when a final order imposing the punishment or otherwise adversely affecting a party is passed, it may have a grievance and cause of action. Thus, a charge sheet or show cause notice in disciplinary proceedings should not ordinarily be quashed by the Court. [Vide : State of U.P. v. Brahm Datt Sharma, (1987) 2 SCC 79; Executive Engineer, Bihar State Housing Board v. Ramesh Kumar Singh & Ors., (1996) 1 SCC 327; Ulagappa & Ors. v. Div. Commr., Mysore*



& Ors., (2001) 10 SCC 639; Special Director & Anr. v. Mohd. Ghulam Ghous & Anr., (2004) 3 SCC 440; and Union of India & Anr. v. Kunisetty Satyanarayana, (2006) 12 SCC 28].

11. In *State of Orissa & Anr. v. Sangram Keshari Misra & Anr.*, (2010) 13 SCC 311, this Court held that normally a charge sheet is not quashed prior to the conclusion of the enquiry on the ground that the facts stated in the charge are erroneous for the reason that correctness or truth of the charge is the function of the disciplinary authority. [See also: *Union of India & Ors. v. Upendra Singh* (1994) 3 SCC 357].

12. Thus, the law on the issue can be summarised to the effect that chargesheet cannot generally be a subject matter of challenge as it does not adversely affect the rights of the delinquent unless it is established that the same has been issued by an authority not competent to initiate the disciplinary proceedings. Neither the disciplinary proceedings nor the charge sheet be quashed at an initial stage as it would be a premature stage to deal with the issues. Proceedings are not liable to be quashed on the grounds that proceedings had been initiated at a belated stage or could not be concluded in a reasonable period unless the delay creates prejudice to the delinquent employee. Gravity of alleged misconduct is a relevant factor to be taken into consideration while quashing the proceedings.”

11. Having noted the above, we observe that the respondents themselves acknowledge the well-settled principle that interference at the stage of issuance of a charge-sheet is permissible only in exceptional circumstances, such as where there is a clear lack of jurisdiction, patent illegality, or mala fides. Despite this express recognition, the respondents contend that any interference in the present case is unwarranted. This position is contrary to the governing principles of service jurisprudence as clearly enunciated by the Hon'ble Supreme Court in ***Union of India v. Ashok Kacker*** (supra), wherein it was held that judicial review at the stage of a charge-sheet is justified wherever the foundational legal defects go to the root of the matter.

11.1 It is profitable to refer to the recent judgment of this Tribunal in OA No.1028/2024, titled ***Manmeet Singh***



**Ahluwalia vs. Union of India and others**, decided on

15.01.2026, in which this Tribunal observed as under:-

15. At this stage, we deem it appropriate to refer to the Hon'ble Supreme Court judgment in the case of **State of Punjab Vs. V.K. Khanna and others**, reported in (2001) 2 SCC 330, the relevant portion of which reads as under:-

**"24.** Before delving into the contentions, we feel it proper to note that the general principles of law as recorded by the High Court pertaining to discharge of duty of a civil servant. The High Court observed:

*"Indisputably, duty is like debt. It must be discharged without delay or demur. A civil servant must perform his duties honestly and to the best of his ability. He must abide by the rules. He should live by the discipline of the service. He must act without fear or favour. He must serve to promote public interest. He must carry out the lawful directions given by a superior. In fact, the Constitution of India has a chapter that enumerates the duties of the citizens of this country. Article 51-A contains a positive mandate. It requires every citizen 'to strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of endeavour and achievement'. This provision can be the beacon light for every citizen and the 'mantra' for every civil servant. So long as he performs this duty as imposed by the Constitution and strives towards excellence, he has none and nothing to fear. Even God would be by his side.*

*At the same time it is undeniably true that whenever there is a dereliction in the performance of duties by the civil servant, the State Government has the right to intervene and punish the guilty. This is the undoubted prerogative of the State. But, to borrow the words of Professor Wade, this power has to be used 'for the public good'. The action of the authority must be fair and reasonable. It should be bona fide. It should not be arbitrary. It should not be based on extraneous considerations. It should be for public good. Bias or personal malice should not taint it. Bias is like a drop of poison in a cup of pure milk. It is enough to ruin it. The slightest bias would vitiate the whole action."*

**25.** Bias admittedly negates fairness and reasonableness by reason of which arbitrariness and mala fide move creep in — issuance of the two notifications, assuming in hot haste, but no particulars of any mala fides move or action has been brought out on record on the part of Shri V.K. Khanna — while it is true that the notings prepared for Advocate General's opinion contain a definite remark about the mala fide move on the part of Shri V.K. Khanna yet there is singular absence of any particulars without which the case of mala fides cannot be sustained. The expression "mala fide" has a definite significance in the legal phraseology and the same cannot possibly emanate out of fanciful imagination or even apprehensions but there must be existing definite evidence of bias and actions which cannot be attributed to be otherwise bona fide —



actions not otherwise bona fide, however, by themselves would not amount to be mala fide unless the same is in accompaniment with some other factors which would depict a bad motive or intent on the part of the doer of the act.

**26.** It is in this sphere let us now analyse the factual elements in slightly more detail – the Chief Minister is desirous of having the files pertaining to two of the senior officers of the administration and concerning two specific instances in normal course of events, we suppose the Chief Secretary has otherwise a responsibility to put a note to the Chief Minister pertaining to the issue and in the event the Chief Secretary informs the Chief Minister through the note that there should be a further probe in the matters for which the files have been asked for, can it by itself smack of mala fides? Personality clash or personal enmity have not been disclosed neither even there is existing any evidence therefor: so in the usual course of events the Chief Secretary in the discharge of his duty sent a note to the Chief Minister recording therein that a further probe may be effected, if so thought fit by the Chief Minister and in the event the Chief Minister agrees therewith, and a probe is directed through an independent and impartial agency – can any exception be taken therefor? Mr Solicitor General answers the same generally that it is the personal vendetta which has prompted the Chief Secretary to initiate this move but general allegation of personal vendetta without any definite evidence therefor, cannot be said to be a sufficient assertion worth acceptance in a court of law. There must be a positive evidence available on record in order to decry an administrative action on the ground of mala fides and arbitrariness. The ill will or spite must be well pronounced and without which it would be not only unfair but patently not in conformity with the known principles of law. On a scrutiny of the files as presented to court and the evidence thereon, unfortunately, however, there is no evidence apart from bare allegation of any spite or ill will, more so by reason of the fact that the same involves factual element, in the absence of which no credence can be attributed thereto. Incidentally, be it noted that submissions in support of the appeal have been rather elaborate and in detail but a significant part of which pertain to the issuance of the two notifications spoken hereinabove, the High Court decried the action as being mala fide. If initiation of a proceeding through CBI can be termed to be a mala fide act then what would it be otherwise when Government acts rather promptly to rescind the notifications – can it be an action for administrative expediency or is it an action to lay a cover for certain acts and omissions? We are not expressing any opinion but in the normal circumstances what would be the reaction pertaining to the issuance of withdrawal notifications, the answer need not be detailed out expressly but can be inferred therefrom.

**27.** The charge-sheet records that Shri Khanna has acted in a mala fide manner and in gross violation of established norms and procedure of government functioning and in utter disregard of the All-India Service Rules, principles of objectivity, fair play, integrity and the



high morals expected of a senior civil servant (emphasis supplied). The notification pertains to acquisition of assets disproportionate to the known source of income by a civil servant and it is in processing these cases that the aforesaid charge as emphasised, has been levelled against Shri V.K. Khanna. We, however, have not been able to appreciate whether initiation of an inquiry against the civil servant, would be in gross violation of established norms and procedure of government functioning. The processing was further stated to be in utter disregard of the All-India Service Rules; we are not aware neither any rules have been placed before this Court wherein initiation of an inquiry for assets disproportionate to the known source of income can be termed to be in disregard of the service rules or fair play, integrity and morals: Do the service rules or concept of fair play, integrity or morals expected of a senior civil servant provide a prohibition for such an initiation or such processing? If that is so, then, of course one set of consequence would follow but if it is other way round then and in that event, question of any violation or a *mala fide* move would not arise. The second charge is in regard to undue hurry and undue interest not being actuated by the nature of cases and as an illustration therefor, note of the Chief Minister was taken recourse to the effect that there was no direction in either of the notes that the cases were to be handled at "breakneck" speed. The note noted above, however, records that CBI enquiry be initiated and the reference may be made "immediately", the direction of the Chief Minister that the recording of action immediately if understood to mean undue haste and if acted accordingly then again one set of consequence follow, but in the normal course of events, such a direction from the Chief Minister ought to be adhered to with promptitude and no exception can thus be taken in that regard.

**28.** Shri V.K. Khanna was also said to have faulted Government instructions under which it is stipulated that in the event of any impending change, no important decisions would be taken by the Secretaries without having it seen by the new Ministers who were to take office shortly. Shri Khanna has been charged of failure to put up the cases for information to the Chief Minister and allegations have been levelled that statutory notification issued on 7-2-1997 were neither sent to the L.R. as required by the rules of business of the Punjab Government nor were they sent for gazetting as required by law. Both charges together, however cannot be sustained at the same time. If the Chief Secretary is not supposed to act by reason of the impending change then he cannot possibly be accused of not acting, as required by the rules of business or as required by law.

**29.** One of the basic charge of *mala fides* as ascribed by Mr Solicitor General, is that the papers pertaining to one of the cases was retained till the night of 24-2-1997 and till 26-2-1997 in another, and the same is unbecoming of the Chief Secretary of the State, more so by reason of the fact that when a new Secretary has already taken over charge. The issue undoubtedly attracted some serious attention but the factum of Respondent 1 Shri Khanna not being in the city and away in Delhi for placement in the



Central Government by reason of the attainment of necessary seniority would cast a definite shadow on the seriousness of the situation. The new Government was declared elected on 9-2-1997. Obviously on a hint that the Chief Secretary may be removed and be transferred, if there is any inquiry as regards the placement and by reason wherefore a delay occurs for about two weeks, in our view, no exception can be taken therefor and neither it calls for any further explanation.

**30.** During the course of submission, strong emphasis has been laid on a linkage between CBI's endeavour to initiate proceedings and the retention of the file, however, does not stand any factual justification since one of the files were returned to the Chief Secretary on 24th February itself whereas CBI lodged the FIR on 25-2-1997. Mr Subramanium however, contended that the contemporaneous noting which has been produced in Court does not indicate any perturbation on the part of the senior officers seeking to recover these papers. Mr Subramanium contended that the anxiety of the first respondent only was to see that the files be lodged in the custody of the responsible person in the administration and the delay caused in that regard can hardly be said to be self-serving or that he played any role in CBI for pursuing the investigation. We have dealt with the issue to the effect that no exception can be taken as regard the action of Respondent 1.

**31.** As regards the allotment of land to the Punjab Cricket Association Mr Solicitor General contended that as a matter of fact, there was a total disregard to ascertain the full facts and an emphatic statement has also been made during the course of hearing and which finds support from the charge-sheet that even the Assembly had categorically endorsed the decision of grant of land at nominal cost together with the release of funds. It is in this context the reply-affidavit filed by the first respondent to the counter-affidavit of the State Government in the High Court is of some consequence and the relevant extracts whereof, are set out hereinbelow for appreciation of the submissions made by the parties on that score, the same reads as below:

“7. The averments in para 7 of the WS are denied as incorrect and those of the petition are reiterated. The petitioner submits that he thoroughly examined the relevant record, cross-checked the facts and exercised due care and caution while submitting the factual report to the Chief Minister on 6-2-1997. Before submission of the factual report to the Chief Minister, the petitioner inter alia found the following material on record:

(i) There was no Cabinet approval, mandatory under the rules of business, for either construction of the cricket stadium or the transfer of about 15 acres of land to the Punjab Cricket Association, a private entity. Apparently, Cabinet had been deliberately and dishonestly bypassed by the Sports Secretary, Shri Bindra.

(ii) Shri Bindra's ACR file showed that he lacked integrity and he had abused his official position to extort



huge amounts of money from government companies under his charge as Secretary, Industries.

(iii) PSSIEC (Punjab Small-Scale Industries and Export Corporation) reported in writing that they paid Rs 2 lakhs for laying the cricket pitch at Mohali.

(iv) The note dated 21-1-1997 of Chief Administrator, PUDA brought out many serious irregularities in regard to grant of funds for the cricket stadium and 'PCA Club'.

(v) It had also come to the petitioner's notice that Shri Bindra directed other companies like Punjab Tractors Ltd., Punwire, PACL etc. not to furnish any information to the Chief Secretary about payments made by them to the Punjab Cricket Association.

(vi) The glaring fact that Shri Bindra had transferred the land to the Punjab Cricket Association at his own level, without the approval of the Finance Department or any higher authority like Minister or Chief Minister, even though the approval of the Council of Ministers was mandatory under the rules. The Sports Department itself did not have any title to the property. It still does not have it.

(vii) The land use was changed by the Housing Development Board from sports complex/cycle velodrome to cricket stadium at Shri Bindra's behest, following collusive and mala fide 'inter-departmental meetings' with Shri Mann.

(viii) The Housing Board connived at serious encroachments made by PCA which is actually in occupation of about 20 acres, as against 10.5 acres mentioned in the decision of the Governor-in-Council (order dated 29-4-1991) which in any case was not for a cricket stadium, but for a sports complex/velodrome."

**32.** It is on this score, Mr Subramanium for Respondent 1 contended, that the factual context as noted hereinbefore prompted the Chief Secretary to submit the note to the Chief Minister and the allegation of not assessing the factual situation in its entirety cannot be said to be correct.

**33.** While it is true that justifiability of the charges at the stage of initiating a disciplinary proceeding cannot possibly be delved into by any court pending inquiry but it is equally well settled that in the event there is an element of malice or mala fide, motive involved in the matter of issue of a charge-sheet or the authority concerned is so biased that the inquiry would be a mere farcical show and the conclusions are well known then and in that event law courts are otherwise justified in interfering at the earliest stage so as to avoid the harassment and humiliation of a public official. It is not a question of shielding any misdeed that the Court would be anxious to do, it is the due process of law which should permeate in the society and in the event of there being any affectation of such process of law that law courts ought to rise up to the occasion and the High Court, in the contextual facts, has delved into the issue on that score. On



***the basis of the findings no exception can be taken and that has been the precise reason as to why this Court dealt with the issue in so great a detail so as to examine the judicial propriety at this stage of the proceedings.***

**34.** *The High Court while delving into the issue went into the factum of announcement of the Chief Minister in regard to appointment of an enquiry officer to substantiate the frame of mind of the authorities and thus depicting bias – what bias means has already been dealt with by us earlier in this judgment, as such it does not require any further dilation but the factum of announcement has been taken note of as an illustration to a mindset viz.: the inquiry shall proceed irrespective of the reply – is it an indication of a free and fair attitude towards the officer concerned? The answer cannot possibly be in the affirmative. It is well settled in service jurisprudence that the authority concerned has to apply its mind upon receipt of reply to the charge-sheet or show-cause as the case may be, as to whether a further inquiry is called for. In the event upon deliberations and due considerations it is in the affirmative – the inquiry follows but not otherwise and it is this part of service jurisprudence on which reliance was placed by Mr Subramanium and on that score, strongly criticised the conduct of the respondents (sic appellants) herein and accused them of being biased. We do find some justification in such a criticism upon consideration of the materials on record.*

**35.** *Admittedly, two enquiries were floated through CBI but purity and probity being the key words in public service and in the event a civil servant is alleged to have assets disproportionate to his income or in the event, there was parting of a huge property in support of which adequate data was not available – can the action be said to be the resultant effect of the personal vendetta or can any charge-sheet be issued on basis thereof, the answer cannot possibly be but in the negative.*

**36.** *The contextual facts depict that there is a noting by an official in the administration that certain vigilance matters are pending as against one of the Secretaries but that stands ignored. We have dealt with this aspect of the matter, in detail hereinbefore, in this judgment. Thus suffice it to note that further effort on the part of Shri Khanna in bringing to notice to the Chief Minister would not have resulted any further development and in that perspective the conduct of Shri Khanna cannot be faulted in any way. These are the instances which the High Court ascribed to be not in accordance with the known principles of law and attributed motive as regards initiation of the charge-sheet.*

#### *Opinion of the Court*

**37.** *As noticed above, mala fide intent or biased attitude cannot be put on a strait-jacket formula but depends upon facts and circumstances of each case and in that perspective judicial precedents would not be of any assistance and as such we refrain from further dealing with various decisions cited from the Bar since facts are otherwise different in each of the decisions.*



**38.** *On a perusal of the matter and the records in its entirety, we cannot but lend concurrence to the findings and observations of the High Court. The judgment under appeals cannot be faulted in any way whatsoever and in that view of the matter these appeals fail and are dismissed without however, any order as to costs."*

*(emphasis supplied)*

16. The Hon'ble Supreme Court in the matter of **Probodh Kumar Bhowmick v. University of Calcutta and Ors.**, reported in 1994 (8) LR 300 (CAL) held that though the service Rules do not constitute a bar to such initiation since an employer has an inherent right to take disciplinary action against his employee. In the matter of **Delhi Development Authority vs. H.C. Khanna**, reported in (1993) II LLJ 303 (SC): AIR 1993 SC 1488: 1993 AIR SCW 1417, it was held by the Hon'ble Supreme Court that the decision to initiate disciplinary proceedings must proceed the charge sheet and such decision must be of the concerned authority and the result of his own application of mind and he cannot be directed by some other authority. In the matter of **Nagaraj Shivarao Karjagi v. Syndicate Bank**, reported in(1991) 3 SCC 219, the Hon'ble Apex Court held that the authority has to decide whether inquiry is called for at all. Keeping in view the observations of the Hon'ble Supreme Court quoted above, we observe that quashing of the charge Memorandum is rare but permissible if disciplinary power is invoked **for a collateral purpose**, not for a discipline misconduct but **to harass or drive out the officer**. In this case, having regard to above analysis, the cumulative pattern shows **administrative victimisation**, not *bona fide* disciplinary regulation. The Hon'ble Courts have repeatedly held that **discipline cannot be weaponised** to coerce, settle scores or punish dissent. If the entire chain of events reeks of **pre-planned persecution**, quashing becomes not only permissible but necessary to restore fairness."

17. We further observe that the charge has to be brief and to the point. In the matter of **Union of India and others vs. Gyan Chand Chattar**, reported in (2009) 12 SCC 78, the Hon'ble Apex Court has held :

*"29. In view of the above, law can be summarized that an enquiry is to be conducted against any person giving strict adherence to the statutory provisions and principles of natural justice. The charges should be specific, definite and giving details of the incident which formed the basis of charges. No enquiry can be sustained on vague charges. Enquiry has to be conducted fairly, objectively and not subjectively. Finding should not be perverse or unreasonable, nor the same should be based on conjunctures and surmises. There is a distinction in proof and suspicion. Every act or omission on the part of the delinquent cannot be a misconduct. The authority must record reasons for arriving at the finding of fact in the context of the statute defining the misconduct. "*

12. At this stage, having regard to the factual matrix of this case, we observe that it is the respondents who have issued letter



dated 02.04.2025 and 03.04.2025 (**Annexure A/16 Colly.**), further action on which was stayed by this Tribunal vide order dated 15.04.2025 in OA No.4975/2024. The respondents in gross disregard to the above mentioned stay order stopping further action on their part have moved ahead and now resorted to issuance of major penalty/proceedings against the applicant vide the impugned Charge Memorandum. It is correct that preliminary inquiry is not a pre-condition for deciding a further action to initiate disciplinary action under Rule 14 of the CCS (CCA) Rules, 1965. However, action of respondents, particularly, in issuing the letter dated 03.04.2025 at page 415 of the paper book wherein the attendance of the applicant has been sought in vigilance investigation being conducted by the respondents against the applicant regarding initiation of departmental action against him, such an action was challenged by the applicant in OA No.4975/2025 and this Tribunal vide order dated 15.04.2025 passed the interim order, which reads as under:-

*8. Meanwhile, by way of an interim measure, it is directed that the presence of the applicant shall not be insisted upon in pursuance of the communications dated 02.04.2025 and 03.04.2025 referred to hereinabove."*

12.1 Therefore, in view of the aforesaid stay on the part of the respondents seeking attendance of the applicant in connection with initiation of disciplinary action against him, now they have resorted to issuance of impugned Charge Memorandum dated 18.08.2025 under Rule 14 of the CCS (CCA) Rules, 1965. This action on the part of the respondents is full of highhandedness and taken in a tearing hurry with the intentions to somehow or



other, to fix the applicant. Such an action by the respondents, who are required to uphold the rule of law and provide a reasonable opportunity to the applicant to place his case, is not acceptable and is held to be a harassment and humiliation of a public officer. The motive involved in the issuance of the charge sheet is driven by the above biased considerations, and the inquiry would be a mere farcical show, the conclusion of which is already well known. Hence, we interfere at this stage itself to avoid further harassment and humiliation of the applicant.

13. Further, we do not agree with the contention of the learned Senior Counsel for the respondents when he drew our attention to Rule 14 (2) of the Rules *ibid* and put forth an argument that disciplinary authority himself can inquire into the allegations or conduct an inquiry by appointing an authority to inquire into the charges. We, in view of reasons given in para *ibid* (12.1) hold that this contention of learned Senior Counsel appearing for the applicant is not applicable in this case.

14. The respondents' decision to proceed with the impugned departmental action is vitiated by grave procedural impropriety, malice in law and abuse of process. Even otherwise, the respondents conduct in compelling the applicant to disclose his defence in the departmental proceedings despite the applicant having already placed the relevant call transcription on record by way of rejoinder in the criminal proceedings, is manifestly unfair and exposes the applicant to undue and irreversible prejudice. The deliberate issuance of the impugned Charge Memorandum in the



teeth of the subsisting interim direction of this Tribunal constitutes wilful disobedience and gross contempt amounting to conscious interference with the due course of justice and fair play and direct affront to the authenticity and sanctity of the Order of this Tribunal. The chain of events unmistakeably demonstrates that the impugned Charge Memorandum bears no real nexus with the purported allegations but appears to be retaliation of respondents arising out of a number of decisions in the matters of the applicant and also is looked as an endeavour to stall the promotion of the applicant. Such conduct is *ex facie* demonstrative of malice in law and personal vendetta and colourable exercise of power.

15. Illegality is writ large of the fact that the charges are vague and indefinite and containing bald and omnibus charge without material particulars and even without list of witnesses which by itself rendering the impugned Charge Memorandum violative of principles of natural justice as authoritatively held by the Hon'ble Delhi High Court in ***Shameem Akhtar*** (supra), wherein it has been categorically held that a charge sheet not supported by any list of witness(es) or evidentiary foundation is unsustainable in law. The mechanical manner and undue haste with which the respondents have acted in the present matter further expose a predetermined mindset, non-application of mind and an overzealous alacrity, wholly incompatible with the fairness and reasonableness mandated by law, leaving no manner of doubt that



the respondents were bent upon penalizing the applicant irrespective of the merits of the case.

16. The applicant's counsel has rightly pleaded that the impugned Charge Memorandum suffers from patent violation of the Rule (3) and Rule (4) of the CCS (CCA) Rules, 1965. The provisions contained in Rules 14 (3) and 14 (4) of the CCS (CCA) Rules, 1965 are reproduced above:-

***"14. Procedure for imposing major penalties .....***

*(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."*

17. It is well-settled that a charge memorandum must contain all relevant particulars, including the list of relied-upon



documents and witnesses, so as to enable the charged officer to effectively defend himself. However, from the perusal of the impugned Charge Memorandum dated 18.08.2025 (Annexure A/1), we find that in the Annexure-IV of the impugned Charge Memorandum it is stated that *"List of Witnesses by whom the Articles of Charges framed against Shri Sameer Wankhede, Ex-Zonal director, Narcotics Conrol Bureau (NCB), Mumbai are proposed to be sustained. ' NIL'"*. Although the respondents have annexed four documents in support of the charges levelled against the applicant by the said impugned Charge Memorandum, however, the said documents cannot be proved without a list of witness(es). The identical issue had arisen for consideration before the coordinate Bench of this Tribunal in **O.A. No. 438/2023 – Smt. Sushmita Saha v. Comptroller and Auditor General of India & Others**, decided on 20.01.2025, wherein the coordinate Bench by referring the decisions of the Hon'ble the Hon'ble Delhi High Court observed as under:

*"7. We have considered the submissions made by the learned counsels for the parties. The relevant provisions of the Rule 14 have been considered by the Hon'ble High Court in the case of **Shameem Akhtar** (Supra) and in identical facts and circumstances in the case of **Jai Kumar Meena** (Supra) this Tribunal has considered and followed the judgment of the Hon'ble High Court of Delhi in **Shameem Akhtar** (Supra).*

*8. In paras 12 to 14 in the case of **Jai Kumar Meena** (Supra), the Tribunal has held as under:-*

*"12. The relevant provisions of Rule 14 of the CCS(CCA) Rules, 1965 have expressly been considered by the Hon'ble Delhi High Court in the case of **Shameem Akhtar** (supra) and the Hon'ble Delhi High Court has also considered various judgments in the said case. For precision, we do not reproduce the Rule 14 of the CCS (CCA) Rules, 1965, rather we*



reproduce the relevant paragraphs of the judgement of the Hon'ble Delhi High Court in the case of **Shameem Akhtar** (supra). Paras 12, 13, 14, 15 & 16 reads as under:

"12. Another ground which was raised by the respondent before the Tribunal for quashing of the charge sheet was that the same was in violation of Rule 14 of sub-Rule (3) of CCS(CCA) Rules, 1965. The said Rule reads as under:

"(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 imputation 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."

13. A reading of the aforesaid Rule would show that the substance of the imputation of misconduct or misbehavior in support of Articles of Charge shall contain the list of documents and list of witnesses by whom the Articles of Charge are proposed to be sustained. In the present case, no list of witnesses was provided to prove the charges leveled against the respondent herein. In the case of *Kuldeep Singh v. The Commissioner of Police and Others*, reported at JT 1998(8) SC 603, it was held as under:

"....there was absolutely no evidence in support of the charge framed against the appellant and the entire findings recorded by the Enquiry Officer are vitiated by reasons of the fact that they are not supported by any evidence on record and are wholly perverse. Again, in its judgment in *Roop Singh Negi Vs. Punjab National Bank and Others* 2009(2) SCC 570 the Apex Court held that mere production of documents is not enough but their contents have to be proved by examining the witnesses. The relevant part of the said judgment is as under:-

14. Indisputably, a departmental proceedings is a quasi judicial proceedings. The Enquiry Officer must be performs a quasi judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a find upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the Investigating Officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to



prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof.

Again the Apex Court in *Modula India Vs. Kamakshya Singh Deo* (1988) 4 SCC 619 held that in a disciplinary proceedings documents are the tools for the delinquent employee for cross examining the witnesses who deposed against him. Further, the Apex Court in its judgment in the case of *Hardwari Lal Vs. State of U.P.& Others* 1999 (8) SCC 582 held that in a departmental enquiry proceedings examination of the material witnesses is a must. We are, therefore of the considered view that the disciplinary proceedings initiated against the Applicant vide the impugned Memorandum dated 22.02.2011 is an exercise in futility.

8. In view of above position, we allow this OA and quash and set aside the impugned Memorandum dated 22.12.2011 with all consequential benefits. As the Applicant has already retired from service, the Respondents shall pass appropriate orders in favour of the Applicant positively within a period of 2 months from the date of receipt of a copy of this order."

14. Similar view was taken by the Supreme Court in the case of *State of U.P. and Ors. v. Saroi Kumar Sinha*, reported at 2010 (2) SLJ 59, wherein it was observed as under:

"26... Even such circumstances it is incumbent on the enquiry officer to record the statement of witnesses mentioned in the charge sheet. Since the Government servant is absent, he would clearly lose the benefit of cross examination of the witnesses. But nonetheless in order to establish the charges the department is required to produce the necessary evidence before the enquiry officer. This is so as to avoid the charge that the enquiry officer has acted as a prosecutor as well as a judge. Enquiry officer acting in a quasi judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/ disciplinary authority/ Government. His function is to examine the evidence presented by the department even in the absence of the delinquent official to see as to whether the unrebatted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could have been taken into consideration to conclude that the charges have been proved against the respondents.

27. Apart from the above by virtue of Article 311(2) of the Constitution of India the departmental inquiry had to be conducted in accordance with rules of natural justice. It is a basic requirement of rules of natural justice that an employee be given a reasonable opportunity of being heard in any proceeding which may culminate in a punishment being imposed on the /employee.



28. When a department enquiry is conducted against the Government Servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The enquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate/removal from service in the case of *Shaughnessy Vs. United States* 345 US 206 (1953) (Jackson J), a judge of the United States Supreme Court has said procedural fairness and regularity are of the 20 indispensable essence of liberty. Severe substantive laws can be endured if they are fairly and impartially applied."

15. It is settled law that the charges leveled against a delinquent official is to be proved in the inquiry before any penalty is imposed. Sub-Rule (3) of Rule 14 provides that the Articles of Charge are to be supported with documents and proved by witnesses during the hearing. In our view, this in-built safeguard has been provided to allow a delinquent employee to cross-examine the witnesses and to rebut the allegations against him. In the absence of any witness and in the absence of any opportunity to cross-examine a witness would be against the canon of natural justice and the same cannot be treated as a mere formality.

16. The writ petition, in our view, is without any merit; there is no ground to entertain the same."

13. We fail to understand that once after the disciplinary order, the applicant has preferred not only statutory appeal but has also preferred revision petition and the same were rejected by the respondents, which alternate remained available to the applicant except to approach this Tribunal. Though the respondents have taken the objection that the applicant has not approached this Tribunal with clean hands, however, nothing has been brought to our notice in support of such vague and baseless assertions made on behalf of the respondents. Rather we find that the case of the applicant is squarely covered by the judgement of the Hon'ble Delhi High Court in the case of *Shameem Akhtar (supra)*.

14. In view of the aforesaid, we pass the following order:

- (i) OA is allowed and impugned orders dated 05.11.2015 (Annexure-A-1), findings dated 13.04.2016(Annexure-A-2), order dated 15.06.2016 AnnexureA-3), appellate order dated 04.03.2020 (Annexure-A-4) and order dated 26.05.2023 (Annexure-A-5) are set aside.
- (ii) The applicant shall be entitled to the consequential benefits.
- (iii) The aforesaid directions shall be complied by the respondents as expeditiously as possible and preferably within 08 weeks from the date of receipt of a certified copy of this order.



(iv) However, the respondents shall be at liberty to proceed against the applicant, if they so decide, in accordance with the relevant rules and instructions."

9. Rule 14(4) (a) of the Rules reads as under:-

"(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."

10. From the aforesaid judgment in the case of *Jai Kumar Meena* and provisions of Rule 14(3) (ii) (b) and Rule 14 (4) (a), it is apparent that the same are mandatory in nature which have been admittedly not been complied with by the respondents while proceeding against the applicant and in passing the orders impugned in the present O.A.

11. In view of the aforesaid, the present, the O.A. is allowed with the following orders:-

- (i) Impugned orders dated 31.01.2022 and 21.11.2022 are set aside.
- (ii) The applicant shall be entitled to consequential benefits.
- (iii) The respondents shall comply with the aforesaid orders, as expeditiously as possible, and preferably within 6 weeks of receipt of a copy of this order.
- (iv) The respondents shall be at liberty to initiate fresh proceedings against the applicant, if they so decide, however, of course in accordance with the relevant rules and instructions on the subject and in such situation both the parties shall be at liberty to agitate all the grounds available to them, in accordance with the law."

18. In view of the above observations and findings recorded

by the Coordinate Bench of this Tribunal in **O.A. No. 438/2023**

– **Smt. Sushmita Saha v. Comptroller and Auditor General of India & Others** (supra), the issue raised by the learned counsel for the applicant is no longer *res integra*. As such we hold that due to the above patent illegality while issuing the impugned Charge Memorandum, the same is void *ab initio*.

19. We further observe that the call transcriptions relied upon for issuance of the impugned Charge Memorandum dated 18.08.2025 constitute the very substratum of the criminal



proceedings presently pending before the Hon'ble Bombay High Court. In such circumstances, insisting upon the applicant to disclose his defence or adduce evidence in the departmental proceedings would amount to compelling the applicant to prejudice his defence in the judicial proceedings. It is a settled proposition of law that departmental proceedings should not compel an accused employee to disclose his defence in parallel criminal proceedings where the allegations, facts and evidence are common. The Hon'ble Supreme Court in **State Bank of India v. R.B. Sharma**, reported in (2004) 7 SCC 27, and **Capt. M. Paul Anthony v. Bharat Gold Mines Ltd.**, reported in (1999) 3 SCC 679, has been held that if continuation of a departmental inquiry has the potential to prejudice the defence of an employee in a criminal case involving identical facts, the disciplinary proceedings deserve to be deferred. Accordingly, the respondents' insistence on proceeding with the inquiry, despite the pendency of the said criminal matter on the same set of facts, is legally untenable and contrary to the settled principles of natural justice.

20. In the result, for the forgoing reasons, we find merit in the OA and the same is accordingly allowed in the following terms:-

- (i) The impugned Charge Memorandum dated 18.08.2025 (Annexure A/1) is quashed and set aside with all consequential benefits in accordance with law and rules on the subject.



21. For the reasons deliberated in this Order, we impose a great restraint on ourselves and refrain from imposing heavy costs on the respondents, with the hope that they will mend their ways and establish an administrative mechanism that upholds the Rule of Law.

22. Pending MA(s) if any, shall stand disposed of.

**(RajinderKashyap)**  
**Member (A)**

/ravi/

**(Justice Ranjit More)**  
**Chairman**