

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

Reserved on: 09.07.2026

Pronounced on: 07.08.2026

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*Whether the operative part
or full judgment is
pronounced: **Full***

WP(C) No.1082/2025

BADAVATH KISHAN

...PETITIONERS/APPELLANT(S)

Through: - Mr. Tapas Das, Advocate, with
Mr. Syed Faheem Indrabi, Advocate.

Vs.

UNION OF INDIA & ORS.

...RESPONDENT(S)

Through: - Mr. Hakim Aman Ali, Dy. AG.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1) Through the medium of present writ petition, the petitioner has challenged Memorandum of Charges dated 27th February 2025, issued by respondent No. 2 in terms of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (for short, 'the Rules of 1965').

2) As per the case set up by the petitioner, he is holding the rank equivalent to that of Major in 18 RCC. It has been submitted that the petitioner has been served with the impugned Memorandum of Charges by respondent No.2 under Rule 14 of the Rules of 1965, alleging therein that he

entered into financial transactions with No.1691 CPL Mazdoor Alauddin Ansari, who was deployed at Detachment Anuthang of 81 RCC, Kargil. In the Memorandum of Charges, it has been alleged that the petitioner inappropriately received a sum of Rs.4.50 lakhs, by cash and digital payment from CPL Mazdoor Alauddin Ansari. Thus, the petitioner is stated to have indulged in misconduct in violation of Rule 16(4)(i)(a) of the Central Civil Services (Conduct) Rules, 1964 (for short, 'the CCS (Conduct) Rules').

3) It is further alleged in the Memorandum of Charges that the veracity of the transaction details was checked with the bank statements obtained from Axis Bank, Kamrup Metro, Malegaon, Guwahati, in terms of letters dated 13th May, 2024, and 14th May, 2024, and also from the State Bank of India, University Branch, Jalukbari, Guwahati, in terms of letter dated 14th May, 2024. It was found that a sum of Rs.1,00,000/- was transferred into the Axis Bank account of the petitioner on 4th June, 2021, which is borne out from the statement of account of Axis Bank for the period 1st April 2021 to 31st March 2022. It is alleged that the transaction details of Rs.1,00,000/- was found to be same with reference to the Immediate Payment Service (IMPS) entry and the Unique Transaction Reference (UTR) received from CPL Mazdoor Alauddin Ansari.

4) The further allegation mentioned in the Memorandum of Charges is that CPL Mazdoor Alauddin Ansari has transferred an amount of Rs.2,00,000/- in five phases to Shri Pulakhandam and Srinivasa Gupta and that there is a possibility that the said persons and the petitioner know each other.

5) According to the petitioner, he had taken a loan of Rs.1,00,000/- from one Sudhir, who was running a general store at Dett. Khalse Leh during the COVID pandemic and the said loan was repaid by him in instalments. It has been further submitted that the amount of Rs.1,00,000/- was deposited into the account of the petitioner through Mr. Farhan. In this regard, a photocopy of an affidavit sworn by Sudhir has been annexed with the writ petition.

6) The petitioner has challenged the impugned Memorandum of Charges on the grounds that the same has been formulated on the basis of report of a Court of Inquiry, but the said Court of Inquiry has been conducted by the respondents without adhering to the mandate of Rule 180 of the Army Rules, 1954, which, according to the petitioner, is *sine qua non* for holding such an inquiry. It has been contended that the petitioner was not present throughout the inquiry nor was he afforded an opportunity to cross-examine

the witnesses, thereby the respondents have violated the provisions of Rule 180 of the Army Rules.

7) The other ground that has been raised for challenging the impugned Memorandum of Charges is that the same suffers from vagueness. It has been contended that the Memorandum of charges is full of surmises and conjectures. It has also been contended that the Memorandum of Charges has been served upon the petitioner belatedly and, on this ground also, the same is liable to be quashed.

8) The respondents have contested the writ petition by filing their reply, wherein it has been submitted that a Court of Inquiry was conducted against the petitioner on account of his involvement in financial transactions with private persons which is not impermissible to a government officer. It has been submitted that these financial transactions are supported with bank statements and other documents like cash books etc. which have been examined by the Board of Officers while holding the Court of Inquiry, whereafter the Memorandum of Charges has been framed against the petitioner.

9) According to the respondents, the petitioner had performed duties as Commanding Officer from 28.11.2019 to 14.03.2022 and during this period, he was involved in illegal

financial transactions, in respect of which the impugned Memorandum of Charges has been framed based upon the findings of the Board of Officers under the provisions of Rule 14 of the Rules of 1965. It has been submitted that the petitioner, while discharging his duties as Officer Commanding of 18 RCC, Project Vijayak, had entered into illegal transactions with Code No.1691 CPL Mazdoor Alauddin Ansari for recruitment of CPLs in his sector during the said period. The details of the financial transactions entered into by the petitioner have been mentioned in the reply. It has been submitted that veracity of these transactions has been checked with the bank statements obtained from Axis Bank, State Bank of India and from other sources, as indicated in the Memorandum of Charges.

10) It has been contended by the respondents that the writ petition is premature, inasmuch as only the Memorandum of Charges has been served upon the petitioner and the inquiry into the said charges is yet to take place. It has been submitted that the petitioner is at liberty to project his defence during the course of the enquiry, but he cannot scuttle the enquiry at this preliminary stage.

11) The petitioner has filed rejoinder to the reply filed by the respondents, in which he has reiterated the contentions raised by him in the writ petition.

12) I have heard learned counsel for the parties and perused record of the case, including the record produced by learned counsel appearing for the respondents.

13) The main ground that has been urged by learned counsel for the petitioner for assailing the impugned Memorandum of Charges is that, while holding the Court of Inquiry against the petitioner, the respondents have not adhered to the procedure prescribed under Rule 180 of the Army Rules, inasmuch as the petitioner has not been heard and he was not allowed to participate in the said proceedings. In order to support his contention that adherence to Rule 180 of the Army Rules is mandatory, learned counsel for the petitioner has placed reliance on the judgments delivered by the Supreme Court in the following cases:

1. **Maharana Pratap Singh vs. State of Bihar & ors.**
2025 SCC OnLine SC 890;
2. **State of Punjab vs. V. K. Khanna & Ors.**
(2021) 2 SCC 330;
3. **Sawai Singh vs. State of Rajasthan**
(1986) 3 SCC 454;
4. **Govt. of A. P. & ors. vs. A. Venkata Raidu**
(2007) 1 SCC 338;
5. **Roop Singh Negi vs. Punjab National Bank & ors.**
(2009) 2 SCC 570;
6. **B. S. Chaturvedi vs. Union of India & ors.**
(1995) 6 SCC 749;

14) According to the petitioner, once it is found that the respondents have not followed the mandatory provisions of

Rule 180 of the Army Rules while holding the Court of Inquiry, the Memorandum of Charges framed on the basis of the report of that Court of Inquiry is illegal and hence liable to be quashed.

15) Rule 180 of the Army Rules deals with the procedure to be followed when the character of a person subject to the Army Act is involved. As per this provision, whenever an inquiry affects the character or military reputation of a person subject to the Army Act, full opportunity has to be afforded to such person of being present throughout the inquiry and of making any statement and giving any evidence he may wish to make or give, cross-examining any witness whose evidence, in his opinion, affects his character or military reputation, and producing any witness in defence of his character or military reputation. It is further mandated in the provision that the Presiding Officer of the Court of Inquiry has to take necessary steps to ensure that any person so affected receives notice and fully understands his rights under the said Rule.

16) As is clear from the ratio laid down by the Supreme Court in the aforesaid judgments, the provisions contained in Rule 180 are mandatory in nature. However, the question that arises for determination is as to whether in the facts and circumstances of the present case, the provisions contained in Rule 180 of the Army Rules are attracted.

17) In the above context, it is to be noticed that the petitioner is a member of GREF/Border Roads Organisation (BRO). The said organization, even though is under the control of the Army authorities, yet the petitioner is not a regular Army Personnel. The BRO comes under the Ministry of Defence, Government of India and the works entrusted to the said organization are required to be carried out under the supervision of the Army authorities. The personnel of GREF are partly drawn from the Army and partly appointed by direct recruitment. The Supreme Court has in the case of **R. Viswan vs. Union of India and others**, (1983) 3 SCC 401, while discussing the nature of service of personnel of GREF, observed as under:

“5. So far as the personnel of GREF are concerned, they are partly drawn from the Army and partly by direct recruitment. Army personnel are posted in GREF according to a deliberate and carefully planned manning policy evolved with a view to ensuring the special character of GREF as a force intended to support the Army in its operational requirements. The posting of Army personnel in GREF units is in fact regarded as normal regimental posting and does not entitle the Army personnel so posted to any deputation or other allowance and it is equated with similar posting in the Army for the purpose of promotion, career planning, etc. The tenure of Army personnel posted in GREF units is treated as normal Regimental Duty and such Army personnel continue to be subject to the provisions of the Army Act 1950 and the Army Rules 1954 whilst in GREF. But quite apart from the Army personnel who form an important segment of GREF, even the directly recruited personnel who do not come from the Army are subjected to strict Army discipline having regard to the special character of GREF and

the highly important role it is called upon to play in support of the Army in its operational requirements. Since the capacity and efficiency of GREF units in the event of outbreak of hostilities depends on their all time capacity and efficiency they are subjected to rigorous discipline even during peace time, because it is elementary that they cannot be expected suddenly to rise to the occasion and provide necessary support to the Army during military operations unless they are properly disciplined and in fit condition at all times so as to be prepared for any eventuality. The Government of India has in exercise of the power conferred upon it by sub-sections (1) and (4) of Section 4 of Army Act 1950 issued a Notification bearing SRO 329 dated 23rd September 1960 applying to GREF all the provisions of that Act with the exception of those shown in Schedule A, subject to the modifications set forth in Schedule B and directing that the officers mentioned in the first column of Schedule C shall exercise or perform, in respect of members of the said Force under their command, the jurisdiction, powers and duties incident to the operation of that Act specified in the second column of Schedule C. This Notification makes various provisions of Army Act 1950 applicable to GREF and amongst them is Section 21 which provides:

21. Subject to the provisions of any law for the time being in force relating to the regular Army or to any branch thereof, the Central Government may, by notification, make rules restricting to such extent and in such manner as may be necessary the right of any person subject to this Act:-

- (a) to be a member of, or to be associated in any way with, any trade union or labour union or any class of trade of labour unions, or and society, institution or association or any class of institution or associations;*
- (b) to attend or address any meeting or to take part in any demonstration organised by any body of persons for any political or other purposes;*
- (c) to communicate with the press or to publish or cause to be published any book, letter or other documents.*

The other sections which are made applicable deal with special privileges, offences, punishments, penal deductions, arrest and proceedings before trial, Court-Martial and other incidental matters. These section which are made applicable are primarily intended to impose strict discipline on the members of GREF— the same kind of discipline which is required to be observed by the regular Army personnel. The Government of India has also in exercise of the powers of conferred by Section 21, sub-section (4) of Section 102 and section 191 of the Army Act 1950 issued another Notification bearing SRO 330 on the same day, namely, 23rd September 1960, directing that the Army Rules 1954 as amended from time to time shall, with the exception of Rules 7 to 18, 168, 172 to 176, 190 and 191, be deemed to be Rules made under the Army Act 1950 as applied to GREF. Rules 19, 20 and 21 of the Army Rules 1954 are material for the purpose of the present writ petitions and they provide inter alia as follows

19. *Unauthorised organisations-No person subject to the Act shall, without the express sanction of the Central Government:-*

- (i) take official cognizance of, or assist or take any active part in, any society, institution or organisation not recognised as part of the Armed Forces of the Union; unless it be of a recreational or religious nature in which case prior sanction of the superior officer shall be obtained;*
- (ii) be a member of, or be associated in any way with, any trade union or labour union, or any class of trade or labour unions.*

20. *Political and non-military activities-(1) No person subject to the Act shall attend, address, or take part in any meeting or demonstration held for a party or any political purposes, or belong to join or subscribe in the aid of, any political association or movement.*

(2) No person subject to the Act shall issue an address to electors or in any other manner publicly announce himself or allow himself to be publicly announced as a candidate or as a prospective candidate for

election to Parliament, the legislature of a State, or a local authority, or any other public body or act as a member of a candidate's election committee or in any way actively promote or prosecute a candidate's interests.

21. Communications to the Press, Lectures, etc-No person subject to the Act shall :-

- (i) publish in any form whatever or communicate directly or indirectly to the Press any matter in relation to a political question or on a service subject or containing any service information, or publish or cause to be published any book or letter or article or other document on such question or matter or containing such information without the prior sanction of the Central Government, or any officer specified by the Central Government in this behalf; or*
- (ii) deliver a lecture or wireless address, on a matter relating to a political question or on a service subject or containing any information or views on any service subject without the prior sanction of the Central Government or any officer specified by the Central Government in this behalf.*

These rules obviously owe their genesis to Section 21 and they impose restrictions on the fundamental rights of members of GREF. Since the Army Act 1950 and Army Rules 1954 are made applicable by virtue of SRO Nos. 329 and 330 dated 23rd September, 1960, GREF personnel when recruited, are required to accept certain terms and conditions of appointment which include inter alia the following:

"5 (iv): You will be governed by the provisions of Central Civil Service (Classification, Control and Appeal) Rules, 1965, as amended from time to time. Notwithstanding the

above, you will be further subject to certain provisions of the Army Act, 1950, and Rules made thereunder, as laid down in SROs. 329 and 330 of 1960, for purposes of discipline. It will be open to the appropriate disciplinary authority under the Army Act 1950 to proceed under its provisions wherever it considers it expedient or necessary to do so."

5 (v): You will be required to serve anywhere in India or outside India and when so called upon by the Government or the appointing authority or your superior officer, you shall proceed on field service.

5 (vi): You shall, if required, be liable to serve in any Defence Service or post connected with the defence of India.

5 (xi): On your appointment, you will be required to wear the prescribed uniform while on duty, abide by such rules and instructions issued by your superior authority regarding discipline, turnout, undergo such training and take such departmental test as the Government may prescribe."

The result is that the directly recruited GREF personnel are governed by the provisions of Central Civil Service (Classification, Control and Appeal) Rules 1965 as amended from time to time but for purposes of discipline, they are subject to certain provisions of the Army Act 1950 and the Army Rules 1954 as laid down in SROs 329 and 330 dated 23rd September 1960."

18) In the same judgment, the Supreme Court has held that members of GREF, in the matters of discipline, are governed by both Rules of 1965 as well as the provisions of the Army Act, 1950 and the Army Rules, 1954. While discussing as to in what matters the members of GREF are to be governed by

the Rules of 1965 and in what manner they are to be governed by the Army Act and the Rules framed thereunder, the Supreme Court has, in para (13) of the aforesaid judgment observed as under:

“13. There was also one other contention advanced on behalf of the petitioners and it raised a question of violation of Article 14 of the Constitution. The contention was that the members of GREF were governed both by the Central Civil Services (Classification, Control and Appeal) Rules 1965 and the provisions of the Army Act 1950 and the Army Rules 1954 in matters of discipline and therefore whenever a member of GREF was charged with misconduct amounting to an offence under the Army Act 1950, it was left to the unguided and unfettered discretion of the authorities whether to proceed against the employee under the Central Civil Services (Classification, Control and Appeal) Rules 1965 or under the Army Act 1950 and the Army Rules 1954 and SROs. 329 and 330 applying the provisions of the Army Act, 1950 and the Army Rules 1954 to members of GREF for purposes of discipline were therefore discriminatory and violative of Article 14. We do not think there is any substance in this contention. In the first place, the nature of the proceedings which may be taken under the Central Civil Services (Classification, Control and Appeal) Rules 1965 against an erring employee is different from the nature of the proceedings which may be taken against him under the provisions of the Army Act 1950 read with the Army Rules 1954, the former being disciplinary in character while the latter being clearly penal. It is significant to note that Section 20 of the Army Act 1950 which deals with dismissal, removal or reduction of any person subject to that Act and clauses (d), (e), (f), (g) and (k) of Section 71 which provide for punishment of cashiering, dismissal, reduction in rank forfeiture of seniority and forfeiture of pay and allowances, have not been made applicable to the members of GREF by SRO No. 329 with the result that, so far as disciplinary proceeding are concerned, there is no overlapping between the provisions of the

Central Civil Services (Classification, Control and Appeal) Rules 1965 and the provisions of the Army Act 1950 and the Army Rules 1954 as applied to the members of GREF. Secondly, it is not possible to say that the discretion vested in the authorities whether to take action against an erring member of GREF under Central Civil Services (Classification, Control and Appeal) Rules 1965 or under the Army Act 1950 and the Army Rules 1954 is unguided or uncanalised. It has been denied in the affidavit of Lt. Col. Shergill that unguided discretion any power is vested in the disciplinary authority to proceed against an employee of GREF either under the Central Civil Services (Classification, Control and Appeal) Rules 1965 or the Army Act 1950 and the Army Rules 1954 or to switch over from one proceeding to the other at the any stage. Lt. Col. Shergill has stated positively in his affidavit that clear and detailed administrative guidelines have been laid down for the purpose of guiding the disciplinary authority in exercising its discretion whether to take action against an employee of GREF under the Central Civil Services (Classification, Control and appeal) Rules 1965 of the Army Act 1950 and the Army Rules 1954 and these guidelines have been set out in full in Annexure R-5 to his affidavit. Thirdly, the decision in Northern India Caterers Ltd. v. Punjab(1) on which the contention of the petitioners is based has been over-ruled by this Court in **Maganlal Chhaganla (P) Ltd v. Municipal Corporation, Greater Bombay(2)** where it has been held that (SCC p.422, para 14) "the contention that the mere availability of two procedures will vitiate one of them, that is, the special procedure is not supported by reason or authority." And lastly, it may be noted that in any event the provisions of the Army Act 1950 and the Army Rules 1954 as applied to the members of GREF are protected by Article 33 against invalidation on the ground of violation of Article 14. The present contention urged on behalf of the petitioners must also therefore be rejected."

19) Relying upon the aforesaid judgment, the Supreme Court in the case of **Mohammad Ansari vs. Union of India and others**, (2017) 3 SCC 740, illustrated the cases in which

a member of GREF may be proceeded against under the Army Act and the Rules and those in which resort can be taken to the provisions of the Rules of 1965. Paras (30) and (31) of the said judgment are relevant to the context and the same are reproduced as under:

“30. At this juncture, it is appropriate to refer to SRO 329. Schedule A thereof, as stated earlier, carves out certain exceptions. Certain provisions of the 1950 Act i.e. Sections 10, 11, 13 to 17, 20, 22 to 24 [falling under Chapter III of the 1950 Act dealing with commission, appointment and enrolment], Section 43, 44 [falling under Chapter VI – offences’ viz. fraudulent enrolment and false answers on enrolment respectively and clauses (d), (e), (f), (g) and (k) of Sections 71, 74 to 78, clauses 9e), (f) and (j) of Section 80 and clause (a) of Section 84, falling under Chapter VII – punishment] have been exempted in their application to the civilian members of the GREF, for the civilian personnel of GREF are not commissioned or enrolled or appointed under the 1950 Act and they are not, therefore, members of the ‘regular Army’ as defined in Section 3(xxi) of the 1950 Act. It is for this reason that certain provisions of the 1950 Act as set out in Schedule B of the SRO 329 have been modified in their application to the members of the GREF. This is fortified by the fact that the GREF personnel are appointed as civilian component of the force in various appointment(s)/ designation in GREF and notified with equivalent ranks in the regular army for the purpose of the 1950 Act vide SRO 1001 dated 20, May, 1961.

31. In view of the statutory framework, it is demonstrable that the 1950 Act and the Army Rules, 1954 have been applied to civilian personnel of the GREF only for the purpose of discipline. The reasons are obvious. The GREF is a force raised and maintained under the authority of the Central Government, its units are set up on the lines of the Indian Army, it works with and under close coordination with regular army in border areas, facilitates the

Indian Army to carry out its operational role, etc. Hence, it has been felt appropriate that the 1950 Act should be made applicable to a force raised and maintained by the Central Government as considered necessary in the interest of discipline. The issue can be perceived from a different perspective. The GREF personnel are subjected by legislative scheme to dual disciplinary control, and such an arrangement is permissible as has been held in R. Viswan. When the offence is such that the provisions of the 1950 Act, as extended to GREF, apply for the purpose of discipline, it will be open to the competent disciplinary authority under the 1950 Act, to proceed against the delinquent under its provisions, and if found guilty, award appropriate punishment. In this context, we may give an example. If an offence is committed in relation to an enemy, offences on active service, mutiny, desertion, disobedience, etc., considering the nature and gravity of the offence, it may warrant severe action against the delinquent by way of trial by a Court Martial. In other disciplinary cases, the competent authority may decide to proceed under CCS(CCA) Rules, 1965 in which the maximum permissible punishment is only 'dismissal from service'."

20) From the foregoing analysis of the legal position, it is clear that members of GREF/BRO are subject to a dual disciplinary authority, namely, the authority prescribed under the Army Act and the authority prescribed under the Rules of 1965. Thus, a member of GREF can be proceeded against in the matters of disciplinary issues either under the Army Act and the rules framed thereunder or under the Rules of 1965. It is entirely the discretion of the Disciplinary Authority to make a choice of the provisions under which a member of the GREF has to be proceeded against. If it is a

case of grave disciplinary issue, like commission of an offence in relation to an enemy or an offence while on active service etc. it may warrant action against the delinquent official by a Court Martial but in case of less graver offences, the delinquent official can be proceed against under the Rules of 1965.

21) Now coming to the facts of the present case, the charge against the petitioner, as is evident from the Memorandum of Charges, is that he indulged in financial transactions with a person with whom he had official dealings, which is prohibited in terms of Rule 16(4)(i)(a) of the Rules of 1964. This appears to be a misconduct which is not of a grave nature and, therefore, the competent authority has decided to proceed against the petitioner in terms of the Rules of 1965 and not under the provisions of the Army Act and the rules framed thereunder. It is true that a Court of Inquiry was held before the framing of Memorandum of Charges, but holding of Court of Inquiry against the petitioner was not even mandatory in the facts and circumstances of the present case having regard to the fact that the respondents have decided to proceed against the petitioner under the Rules of 1965 and not under the Army Act and the rules framed thereunder. Thus, even if Rule 180 of the Army Rules has not been adhered to by the respondents while conducting the Court of

Inquiry, the same may not be fatal to the enquiry which has been initiated by the respondents against the petitioner under the Rules of 1965. The judgments relied upon by the petitioner pertain to the cases where the delinquent officials/officers were proceeded against by the Army Authorities under the Army Act and the rules framed thereunder and they were being tried before a Court Martial. It is in those circumstances that adherence to Rule 180 of the Army Rules has been held to be mandatory. The ratio laid down in those judgments is not attracted to the facts of the present case. The contention of the petitioner in this regard is, therefore, without any substance.

22) The other ground that has been urged by learned counsel for assailing the impugned Memorandum of Charges is that the same is vague and based on surmises and conjectures and, therefore, liable to be quashed.

23) In the above context, it would be appropriate to reproduce the statement of articles of charge that has been framed against the petitioner:

“That the said Shri Badavath Kishan, EE (Civ) (GO-3367L) while posted with 81 RCC/762 BRTF(P) Vijayak, C/O 56 APO {presently posted at HQ 31 BRTF (P) Sampark} and functioning as Officer Commanding for the period from Nov 2019 to 14 Mar 2022, has indulged in an illegal financial transaction with Code No 1691 CPL (Maz) Alauddin Ansari S/o Rahmali Miya, Vill- Domahani, PO- Murbhanga, Dist-Dumka (Jharkhand) who was a CPL/Mazdoor Deployed at Detachment Hanuthang within the area of responsibility of 81 RCC (P) Vijayak. CPL/Mazdoor Alauddin Ansari

S/o Rahmali Miya was recruited on 22 Nov 2021 at Dett Hanuthang of 81 RCC against Muster Roll No. 25471 with Code No. 4643 as per Medical Examination form. CPL/Mazdoor Alauddin Ansari was discharged from his duties on 01 Apr 2022 while he was holding Code No 1691 in Muster Roll No 25420 maintained by Dett Hanuthang of 81 RCC (P) Vijayak during the FY 2021-22.

2. As corroborated through Bank statements, the said officer, inappropriately received a sum of Rs 4,50,000/- (Rupees four lakh fifty thousand only) by cash and digital payments through Axis Bank and SBI Bank accounts during the year 2021-22 from CPL/Mazdoor Alauddin Ansari S/o Rahmali Miya for recruitment of labourers within the area of 81 RCC. However, the officer was posted out from 81 RCC (P) Vijayak without refunding the said amount. In spite of being aware of the Rules and Regulations governing his service, wherein financial transactions between a Government Servant and a Person/Firm/Institution having financial dealings/trade is prohibited, still the officer violate Rule 16(4)(i)(a) of CCS (Conduct) Rules, 1964.

3. By his above act, the said Shri Badavath Kishan, EE(Civ) (GO-3367L) has failed to maintain absolute integrity and exhibited misconduct, which is unbecoming of a Government Servant. He has also misused his official position, thereby violating sub Rule 1(i), (iii) & (xv) of Rule 3 of the CCS (Conduct) Rules, 1964.

24) From a perusal of the aforesaid statement of articles of the charges, it is clear that the same contains the full particulars of the charges and there is no vagueness in the same. It is clearly indicated in the articles of charges that the petitioner has indulged in financial transactions with CPL Mazdoor Alauddin Ansari, with whom he had official dealings. The memo of charges also indicates as to how much amount the petitioner had received from the aforementioned person and, in fact, even the details of the transaction between the petitioner and the aforementioned Mazdoor are mentioned in the statement of imputation of misconduct. The list of documents attached to the articles of charge gives the details of the bank statements and other material on the basis of which the

charges are sought to be proved against the petitioner. Thus, contention of the petitioner that the charges are vague and based on surmises and conjectures, is without any substance.

25) Apart from the above, it is to be noted that there is very limited scope for a Writ Court to interfere in the disciplinary enquiry at the stage of framing of charges. It is only if the charges framed are contrary to any law or the same are absolutely vague so as to prevent the delinquent official from making an effective defence to the same that the Court can interfere. At this stage, the Court has no jurisdiction to go into the correctness or otherwise of the charges. It is only the disciplinary authority and the enquiry officer who have the jurisdiction to go into all these issues. Reliance in this regard is placed on the judgment of the Supreme Court in the case of **Union of India and others vs. Upendra Singh**, (1994) 3 SCC 357. Paras (6) and 7 of the said judgment are relevant to the context and the same are reproduced as under:

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, Kamal v. Gopi Nath & Sons⁵. 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 5 1992 Supp (2) SCC 312 mainly on the basis of the material produced by the respondent before it, as we shall presently indicate."

26) In the face of the foregoing legal position, it is clear that the scope of this Court in interfering in the enquiry that has

been initiated against the petitioner at this stage is very limited. In the present case, the petitioner has failed to convince this Court that the charges framed against him are contrary to law or that the same are vague lacking in material particulars. Therefore, it is not open to this Court at this stage to interfere in the enquiry proceedings.

27) Lastly, it is been contended by learned counsel for the petitioner that the Memorandum of Charges has been served upon the petitioner belatedly. In this context, it is to be noted that the transactions which form the basis of the impugned Memorandum of Charges pertain to the years 2021 and 2022. Before framing the charges, a Court of Inquiry was conducted to ascertain the veracity of the allegations made against the petitioner. It is thereafter that the Memorandum of Charges dated 27th February 2025 came to be framed against the petitioner. In these circumstances, there was no undue delay in framing of memorandum of charges against the petitioner. It is true that, ordinarily, the enquiry has to be initiated against a delinquent official without any undue delay but there is no straight-jacket formula laying down that if an inquiry is initiated after a particular period of time, the same would get vitiated. In these circumstances, the ground projected by the petitioner cannot form a basis for quashing the impugned Memorandum of Charges.

28) For what has been discussed hereinbefore, the petition, being devoid of merit, is dismissed accordingly. The interim order shall stand vacated.

29) The record be returned to learned counsel for the respondents.

(Sanjay Dhar)
Judge

SRINAGAR

07.08.2026

“Bhat Altaf-Secretary”

Whether the **Judgement** is speaking:

YES

Whether the **Judgement** is reportable:

YES/No

