

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: January 19, 2022

+ W.P.(C) 890/2020, CM APPL. 2874/2020

SHRI FAJALUR RAHAMAN Petitioner
Through: Mr. N.S. Dalal and Mr. Alok Kumar,
Advs.

versus

I.P.G.C.L. THROUGH ITS MANAGING DIRECTOR AND
ORS. Respondents
Through: Mr. R. K. Vats and
Ms. Kumari Alka, Advs.

AND

+ W.P.(C) 3495/2021, CM APPL. 10588/2021

B S PURIA Petitioner
Through: Mr. Anunaya Mehta and
Mr. Vinayak Thakur, Advs.

versus

INDRAPRASTHA POWER GENERATION CO. LTD.
& ANR. Respondents
Through: Mr. R. K. Vats and
Ms. Kumari Alka, Advs.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

J U D G M E N T

V. KAMESWAR RAO, J

1. As an identical issue arises for consideration in these two writ

petitions, they are being decided together through this common order. The issue that has arisen is whether the Director (Technical) is competent to issue charge sheet to the petitioners herein.

W.P.(C) 890/2020

2. The writ petition has been filed by the petitioner with the following prayers:

“Therefore, on the facts and in the circumstances of the case, it is most humbly and respectfully prayed that this Hon'ble Court may kindly be pleased to:-

- i. Issue an appropriate writ, order or direction thereby quashing the chargesheet memo dated 07.09.2017 along with order dated 31.05.2018 for Inquiry under Rule-14 of CCS(CCA) Conduct Rule 1965, which is for major penalty proceedings issued by Sh.Jagdish Kumar-Director (Technical), I.P.G.C.L., whereby he is claiming to be the Disciplinary Authority and who appointed an Inquiry officer to conduct the enquiry against the Petitioner herein;*
- ii. Pass any such other or further orders as this Hon'ble Court may deem fit and proper on the facts and in the circumstances of the case, in favour of the Petitioner and against the Respondent.”*

3. The petitioner while working as Deputy Manager, at the respondent No.1 Company, has been issued a charge sheet on September 07, 2017 under Rule 14 of the CCS (CCA) Rules, 1965 ('Rules of 1965', for short) by Director (Technical).

4. A reply to the charge sheet has been filed on September 21, 2017.

W.P.(C) 3495/2021

5. Similarly, this writ petition has been filed by the petitioner with the following prayers:

“Wherefore, it is most respectfully prayed that this Hon’ble Court may be pleased to:

(i) Pass an appropriate writ, order or direction quashing the memorandums of charge (chargesheet) issued by the Respondent No. 2 [Director (Technical) of Respondent No.1 Organization] upon the Petitioner bearing (1) No.F.2/164/2017/Sr.Mgr.(HR) DC/326 dated 20.12.2017 and (2) No.F.6/306/2017/Vig/Mgr(HR)/ DC/2017-18/1955 dated 23.04.2018;

(ii) In the alternative to and without prejudice prayer (i), pass an appropriate writ, order or direction declaring that the penalty of compulsory retirement, removal or dismissal cannot be imposed upon the Petitioner in the pending disciplinary proceedings;

(iii) Pass such other and further orders in the facts and circumstances of the case.”

6. At the outset, Mr. N.S. Dalal, learned counsel for the petitioner in W.P.(C) 890/2020 would submit that, the counter affidavit was filed on behalf of the respondents through G. Srikumar, Senior Manager (HR) who is an employee of Pragati Power Corporation Limited (‘PPCL’, for short), which is a Public Company and has nothing to do with the respondent Company, i.e., Indraprastha Power Generation Company Limited (‘IPGCL’, for short, respondent No.1 herein) as such is not competent to file the affidavit. In other words, the representation of G. Srikumar that he is working in the respondent Company is factually incorrect.

7. In substance, it is Mr. Dalal’s submission that the respondent No.1 and PPCL are two different entities and hence only the employee working in the respondent No.1 Company could have filed the counter

affidavit. It is not known how G. Srikumar can be conversant with the facts of the case when he is not the employee of the respondent No.1 Company. So, he cannot file the counter affidavit.

8. On merit, the submission of Mr. Dalal, is that the Director (Technical) is not competent to issue a charge sheet to a Group 'A' employee of IPGCL, i.e., respondent No.1 herein, in case of major penalty proceeding under Rule 14 of the Rules of 1965, rather it is the Director (HR) who is competent.

9. This according to him, is because of delegation of power issued by the respondent Company, stipulates the Director (HR) as the appointing authority and the Director (Technical) as the Disciplinary authority to impose minor penalty and major penalty other than compulsory retirement, dismissal and removal, whereas the Director (HR) is competent to impose penalty of compulsory retirement, dismissal and removal as such being an authority to impose higher penalty, which shall be competent to issue the charge sheet under Rule 14 of the Rules of 1965.

10. According to Mr. Dalal, the issue in hand is covered by the judgment of this Court in the case of *M.K. Saini v. IPGCL & Ors., W.P.(C) 202/2017*, decided on January 10, 2017.

11. Mr. Anunaya Mehta, learned counsel appearing for the petitioner in W.P.(C) 3495/2021 would submit that the petition has been filed challenging the issuance of charge sheets to the petitioner, on two counts; firstly, that the Director (Technical) is not the Competent Authority having the power or jurisdiction to issue the charge sheets in question. Therefore, since the very issuance of charge

sheets is illegal, all further proceedings necessarily have to fail and deserve to be quashed. Secondly, that the issuance of charge sheet is actuated by gross *mala fide* on the part of respondent No.1 and its Senior Officers and therefore, independently on this ground as well, the charge sheets deserve to be quashed.

12. Insofar as the question of competency of Director (Technical) to issue charge sheets is concerned, the submission of Mr. Mehta was similar to the one which I have noted above, i.e., the Disciplinary Authority to impose minor penalty and major penalty other than compulsory retirement, dismissal and removal on Group 'A' employee, is the concerned Director. Further, the competent Disciplinary Authority to impose a major penalty of compulsory retirement, removal and dismissal on Group 'A' employee (other than General Manager or equivalent Officer / Company Secretary), is Director (HR).

13. According to him, the Delegation of Powers ('DOP' for short) under the service rules is clear and bears no ambiguity. Therefore, once the service rules designate a particular authority as having jurisdiction to impose a particular penalty upon an employee, it is that authority and that authority only which has the power or jurisdiction to impose such penalty. No other authority, even if it is equivalent in stature and seniority to the designated authority, can be said to be competent to impose such penalty.

14. He further qualifies his submission by stating that the proceedings for imposition of the penalty in question can be commenced only by the authority competent to impose the said

penalty. The disciplinary proceedings cannot be initiated by an authority which is not competent to eventually impose the penalty in question. It is only the Disciplinary Authority which is competent to impose the penalty in question which can initiate disciplinary proceedings in relation to imposition of such a penalty and continue the proceedings to their logical conclusion.

15. The only exception to the Rule is provided by an explanation which provides that the authority competent to impose major penalty can also impose minor penalty. No other exception to the Rule is provided under the service rules. Hence, the petitioner, being Senior Manager (Technical) at the relevant point of time, the concerned Director in the petitioner's case would be Director (Technical), who is the only competent authority to initiate minor penalty proceedings and major penalty proceedings other than compulsory retirement, removal and dismissal. Mr. Mehta would submit that therefore, it necessarily follows that it is only the Director (HR) who could have issued the higher of the major penalties under Rule 11 of the Rules of 1965 and hence, only he could have issued the charge sheets in question.

16. Mr. Mehta has also relied upon the judgment in the case of *M.K. Saini (supra)*. That apart, he also relied upon the judgment of the Supreme Court in the case of *Union of India & Ors. v. B. V. Gopinath & Ors., (2014) 1 SCC 351*.

17. On the other hand, Mr. R. K. Vats, learned counsel appearing for the respondents would justify the action of the respondents by contending that the charge sheet has been rightly issued by the Director (Technical), inasmuch as the Director (Technical) is also the

controlling authority in respect of the petitioners. He has the power, authority and jurisdiction to initiate disciplinary proceedings under Rule 14 of the Rules of 1965. He heavily relied upon the DOP for disciplinary proceedings as applicable to IPGCL / PPCL. The DOP specifies Director (HR) as the appointing authority of all Group 'A' posts (except GM and equivalent posts and Company Secretary) and in respect of the said posts, the Director (concerned) is detailed as the Competent Authority for imposition of minor and major penalties except compulsory retirement, removal and dismissal under Rule 11 of the Rules of 1965.

18. Undeniably, the petitioners, at the relevant time, were holding the post of Deputy Manager (Technical) and Senior Manager (Technical) which are Group 'A' posts and were working under the Director (Technical) and were also reporting to Director (Technical) through GM (Technical). As such, the Director concerned would be the Director (Technical), as would be revealed from a reading of the DOP in the light of the footnote explanation. He stated, the term Disciplinary Authority has been defined under Rule 2(g) of the Rules of 1965 to mean "*an authority, who is competent to impose minor as well as major penalties as detailed under Rule 11 of the Rules of 1965*".

19. He also relied upon the Rule 13 (2) of the Rules of 1965 which contemplate the Disciplinary Authority competent under these rules may impose any of the penalties specified in Clauses (i) to (iv) of Rule 11 and institute disciplinary proceedings against any government servant for the imposition of any of the penalties specified in Clause

(v) to (ix) of Rule 11 notwithstanding that such Disciplinary Authority is not competent under these rules to impose any of the latter penalties.

20. He stated that the Director (Technical) had the requisite authority, power and jurisdiction to initiate the major penalty proceedings and to pass orders for appointment of Inquiry Officer in respect thereof. That apart, he stated that no rule has been brought on record prescribing that in case of Group 'A' posts / technical, the appointing authority / Director (HR) alone would be the Competent Authority to institute the disciplinary / major penalty proceedings. In substance, it is his plea that Rule 2(g) read with Rules 11 and 13 of the Rules of 1965, in fact, prescribe otherwise. He also relied upon the judgment of the Supreme Court in the case of *P.V. Srinivas Sastry & Ors. v. Union of India & Ors., (1993) 1 SCC 419* in support of his submission.

21. Insofar as the judgment in the case of *M.K. Saini (supra)* on which much reliance has been placed by the counsel for the petitioner(s) is concerned, his submission was that the same does not support the petitioners' case that the appointing authority / Director (HR) alone would be competent to institute disciplinary / major penalty proceedings against the holder of the Group 'A' posts. Rather, the said judgment supports the respondents' case, as it has been held therein that when inquiry proceeding commences, it is not known whether major penalty or minor penalty will be imposed on the charge sheeted officer, and therefore, at that stage, the issuance of charge sheet by the higher authority (Director (HR) in that case), is ordinarily

and rightly justified.

22. Further, the observations in *M.K. Saini (supra)* were rendered in the facts of that case. He seeks the dismissal of the writ petitions.

23. Having heard the learned counsels for the parties, and noted the issue, before I answer the same, it is necessary to answer the preliminary submission made by Mr. Dalal that G. Srikumar, Senior Manager (HR), who is working in PPCL is not competent to file the counter affidavit. An additional affidavit has been filed by G. Srikumar by stating that he was employee with the PPCL in 2010. The two companies, i.e., IPGCL and PPCL are public utility companies under the Government of NCT of Delhi. Both companies are managed by the recruitees, either recruited in IPGCL or PPCL, wherever needed, irrespective of the origin of the employees, i.e., IPGCL or PPCL.

24. Vide office order dated June 17, 2019 issued with approval of the Competent Authority, the work of Disciplinary Cell of IPGCL was assigned to him. He was aware of the facts and circumstances of the writ petition and as such, was competent to swear, verify and sign the counter affidavit on behalf of the respondent No.1.

25. Further, the manpower structure of both IPGCL / PPCL was restructured vide Board resolution dated February 15, 2012 as combined sanctioned strength and promotions in both IPGCL / PPCL are affected in a combined manner, irrespective of the origin of employee, i.e., DVB, IPGCL or PPCL. In view of above, he is competent and duly authorized to depose, verify and sign the counter affidavit. Having noted the contents of the additional affidavit, the plea of Mr. Dalal is liable to be rejected.

26. There is no dispute that the present petition is under Article 226 of the Constitution of India. Apart from what has been stated by G. Srikumar, it is clear that he has also looked after the work of the Disciplinary Cell of IPGCL. In any case, he has sworn the affidavit on the basis of the record, and as such can file the same. I do not find any illegality in G. Srikumar filing the counter affidavit on behalf of IPGCL. Mr. Dalal has not shown any rule, regulation debarring the filing of affidavit by any employee of PPCL.

27. Before I answer the issue which arises for consideration in these writ petitions, I shall reproduce the DOP as annexed by the respondents along with their counter affidavit as under:

“Indraprastha Power Generation Company Limited
&
Pragati Power Corporation Limited
Delegation of Power for Disciplinary Proceedings

PART-IV

<u>S.</u> <u>N</u> <u>o</u>	<u>Description of the</u> <u>-Post</u>	<u>Appoin</u> <u>ting</u> <u>Author</u> <u>ity</u>	<u>Competent</u> <u>Authority for</u> <u>imposition of</u> <u>Minor</u> <u>penalties</u> <u>vide Rule 11</u> <u>of CCS</u> <u>(CCA) Rules,</u> <u>1965</u>	<u>Competent</u> <u>Authority</u> <u>for</u> <u>imposition</u> <u>of Major</u> <u>penalties</u> <u>except</u> <u>Compulsor</u> <u>y</u> <u>retirement,</u> <u>Removal</u> <u>and</u> <u>Dismissal)</u> <u>vide Rule</u> <u>11 of CCS</u> <u>(CCA)</u> <u>Rules, 1965</u>	<u>Competent</u> <u>Authority for</u> <u>imposition of</u> <u>Major</u> <u>penalties of</u> <u>Compulsory</u> <u>retirement,</u> <u>Removal and</u> <u>Dismissal</u> <u>vide Rule 11</u> <u>of CCS</u> <u>(CCA) Rules,</u> <u>1965</u>	<u>Appellate</u> <u>Authority</u>	<u>Revisionary</u> <u>Authority</u> <u>under Rule 29</u> <u>(vi) of CCS</u> <u>(CCA) Rules,</u> <u>1965</u>
<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
1	Group “A” General Manager and equivalent	MD	Director (Concerned) **	MD		MD for penalties imposed by	Board of IPGCL/PPCL

	posts					Director Board for IPGCL/PPCL for penalties imposed by MD	
2	Group "A" Company Secretary	MD	MD	MD		Board of IPGCL/PPCL	Board of IPGCL/PPCL
3	All Group "A" Posts except posts mentioned above at Sl.No.1 & 2	Director or (HR)	Director (Concerned) **	Director (Concerned) **	Director (HR)	MD	-do-
4	All Group "B" Posts	Director or (HR)	GM (Concerned) **	Director (Concerned) **	Director (HR)	Director (Concerned) for penalties imposed by GM MD for penalties imposed by Director	MD Board of IIPGCL / PPCL
5	All Group "C" Posts	GM(HR)	DGM (Concerned) **	GM (Concerned) **	GM (HR)	GM (Concerned) for penalties imposed by DGM (Concerned) Director (Concerned) ** for penalties imposed by GM (Concerned) *	Director (Con) MD MD
6	All Group "D" Posts	GM (HR)	Manager (Concerned) **	DGM (Concerned) **	GM(HR)	DGM (Concerned) for penalties imposed by Manager (Concerned) GM (Concerned) for penalties imposed by DGM	GM (Concerned) Director (Con.)

						(Concerned) Director (HR) for penalties imposed by GM (HR)	MD
--	--	--	--	--	--	---	----

*** Officer under whom the incumbents is presently, working i.e. to illustrate, if a vehicle driver is working in store department then GM (Store)/DGM (Store) will be the concerned.*

Note:

(a) The various authorities cited above are defined on the basis of initial scale of a post and not on the basis of time bound scales awarded to the employees later.

(b) The authority competent to impose major penalties can also impose minor penalties.”

28. The DOP is clear in stipulating the authority who can impose penalty, both minor and major, in terms of Rule 11 of the Rules of 1965. As the petitioners were holding Group ‘A’ posts, the Director concerned, i.e., Director (Technical), is the authority competent to impose minor and major penalties except compulsory retirement, dismissal and removal. The DOP only stipulates, the Director (HR) is the appointing authority for Group ‘A’ posts except General Manager or equivalent posts and Company Secretary. It does not state, which is the authority competent to initiate disciplinary proceedings.

29. Even Rule 2(a) of the Rules of 1965 stipulates appointing authority to mean the authority competent to make appointments but Rule 2(g) of the Rules of 1965 which defines Disciplinary Authority to mean an authority competent under the Rules to impose on a government servant any of the penalties specified under Rule 11 of the Rules of 1965.

30. Mr. Vats is right in stating that the issue whether Director

(Technical) can initiate disciplinary proceedings is covered by the provisions of Rule 13 (2) of the Rules of 1965 which I reproduce as under:

“13. Authority to institute proceedings

(1) The President or any other authority empowered by him by general or special order may –

(a) institute disciplinary proceedings against any Government servant;

(b) direct a disciplinary authority to institute disciplinary proceedings against any Government servant on whom that disciplinary authority is competent to impose under these rules any of the penalties specified in rule 11.

(2) A disciplinary authority competent under these rules to impose any of the penalties specified in clauses (i) to (iv) of rule 11 may institute disciplinary proceedings against any Government servant for the imposition of any of the penalties specified in clauses (v) to (ix) of rule 11 notwithstanding that such disciplinary authority is not competent under these rules to impose any of the latter penalties.”

31. The above Rule makes it clear that the Disciplinary Authority is competent to impose any of the penalties specified in Clauses (i) to (iv) of Rule 11, and may institute disciplinary proceedings against any government servant for the imposition of any of the penalties specified in Clauses (v) to (ix) of Rule 11 notwithstanding that such Disciplinary Authority is not competent under these Rules to impose any of the latter penalties.

32. In other words, even though the Director (Technical) in terms of the DOP is not competent to impose major penalties of compulsory retirement, dismissal and removal on a Group ‘A’ employee (other than General Manager or equivalent posts and Company Secretary), he

is competent to initiate disciplinary proceedings against a Group 'A' employee (other than General Manager or equivalent posts and Company Secretary) for imposition of major penalties as specified in Clauses (v) to (ix) of Rule 11 of the Rules of 1965.

33. Mr. Vats is also justified in relying upon the judgment of the Supreme Court in *P.V. Srinivas Sastry & Ors. (supra)* wherein in paragraphs 4 to 6 it was held as under:

“4. Article 311(1) says that no person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds civil post under the Union or a State “shall be dismissed or removed by an authority subordinate to that by which he was appointed”. Whether this guarantee includes within itself the guarantee that even the disciplinary proceeding should be initiated only by the appointing authority? It is well known that departmental proceeding consists of several stages: the initiation of the proceeding, the inquiry in respect of the charges levelled against that delinquent officer and the final order which is passed after the conclusion of the inquiry. Article 311(1) guarantees that no person who is a member of a civil service of the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed. But Article 311(1) does not say that even the departmental proceeding must be initiated only by the appointing authority. However, it is open to Union of India or a State Government to make any rule prescribing that even the proceeding against any delinquent officer shall be initiated by an officer not subordinate to the appointing authority. Any such rule shall not be inconsistent with Article 311 of the Constitution because it will amount to providing an additional safeguard or protection to the holder of a civil post. But in absence of any such rule, this right or guarantee does not flow from Article 311 of the Constitution. It need not be pointed out that initiation of a departmental proceeding per se does not visit the officer

concerned with any evil consequences, and the framers of the Constitution did not consider it necessary to guarantee even that to holders of civil posts under the Union of India or under the State Government. At the same time this will not give right to authorities having the same rank as that of the officer against whom proceeding is to be initiated to take a decision whether any such proceeding should be initiated. In absence of a rule, any superior authority who can be held to be the controlling authority, can initiate such proceeding.

5. In the case of State of M.P. v. Shardul Singh [(1970) 1 SCC 108] the departmental enquiry had been initiated against the Sub-Inspector of Police by the Superintendent of Police, who sent his enquiry report to the Inspector-General, who was the appointing authority. The Inspector-General of Police dismissed the officer concerned from the service of the State Government. That order was challenged on the ground that the initiation of the departmental enquiry by the Superintendent of Police was against the mandate of Article 311(1) of the Constitution. This contention was accepted by the High Court. But this Court said: (SCC p. 112, para 10)

“... we are unable to agree with the High Court that the guarantee given under Article 311(1) includes within itself a further guarantee that the disciplinary proceedings resulting in dismissal or removal of a civil servant should also be initiated and conducted by the authorities mentioned in that Article.”

6. Reliance was placed on behalf of the appellants on the judgment of this Court in the case of Scientific Adviser to the Ministry of Defence v. S. Daniel [1990 Supp SCC 374 : 1991 SCC (L&S) 355 : (1990) 2 SCR 440 : (1991) 15 ATC 799] . From the aforesaid judgment it shall appear that Rule 13 of the Central Civil Services (Classification, Control and Appeal) Rules, which was under consideration specifically provided:

“13. Authority to institute proceedings.— (1) The President or any other authority empowered by him

*by general or special order may—
(a) institute disciplinary proceedings against any
Government servant;”*

Although Article 311 of the Constitution does not speak as to who shall initiate the disciplinary proceedings but, as already stated above, that can be provided and prescribed by the rules. But if no rules have been framed, saying as to who shall initiate the departmental proceedings, then on the basis of Article 311 of the Constitution it cannot be urged that it is only the appointing authority and no officer subordinate to such authority can initiate the departmental proceeding. In the present case, it was not brought to our notice that any rule prescribes that the Accountant General, who is the appointing authority, alone could have initiated a departmental proceeding.”

34. In fact, I find that the proceedings against the petitioner in W.P.(C) 890/2020 have culminated in a minor penalty of his reduction to a lower stage in the time scale of pay by one stage for a period of two years with cumulative effect. So, in fact, the penalty being a minor penalty, no prejudice has been caused to the petitioner with the issuance of charge sheet by the Director (Technical) and not by Director (HR).

35. Similarly, I have been informed by Mr. Mehta that the petitioner in W.P.(C) 3495/2021, who has since retired, has been imposed with the penalty of reduction in pension for three years which mean, it is not a penalty of compulsory retirement, dismissal or removal which the Director (Technical) could not have been imposed. In this case as well, no prejudice has been caused to the petitioner.

36. Mr. Mehta during his submission has referred to the judgment of the Supreme Court in ***B.V.Gopinath (supra)*** to contend that the

authority initiating the disciplinary proceedings must not only take a decision to initiate disciplinary proceedings but also ensure the charges are also framed by him and as such he should be clear that the charges shall entail the penalty of compulsory retirement, dismissal and removal. In such a scenario, the Director (Technical), who could not have been imposed such penalties, could not have issued charge sheet. I am not in agreement with the said submission of Mr. Mehta for the simple reason that in ***B.V.Gopinath (supra)***, the Supreme Court was concerned with the issue that the Competent Authority shall not only decide the hold of disciplinary proceedings against a Government servant but also, to approve the charges framed against the government servant. The said issue does not arise for consideration in this writ petition. Hence, the reliance on ***B.V.Gopinath (supra)*** is misplaced.

37. During their submissions Mr. Dalal and Mr. Mehta have heavily relied upon the judgment of this Court in ***M.K. Saini (supra)***. Suffice to state, in ***M.K. Saini (supra)*** the challenge was to the order of the Disciplinary Authority dated May 22, 2014 and Appellate Authority dated May 15, 2015 by which the petitioner therein was imposed a minor penalty of reduction of pay scale for one year with consequence of postponing his future increments of pay and on expiry of the period, the petitioner was to regain the original seniority in the higher grade. The plea advanced in the said case was that the charge sheet in the said case was issued by the Director (HR), who did not have the jurisdiction and who also passed the order dated May 22, 2014, inasmuch as, as per the service rules, the Director concerned should be the Disciplinary Authority. As the petitioner held the post of

Assistant Manager (Technical), the Director (Technical) should have been the Disciplinary Authority and not the Director (HR). The Court negated the plea by holding in paragraph 4 as under:

“4. I have gone through the relevant rules of the respondent no.1 / employer pertaining to disciplinary proceedings to be held against the employees of the respondent no.1, and it is found that as per these rules, so far as the minor penalty proceedings are concerned, a charge sheet has to be issued by the concerned Director but for major penalty proceedings, charge sheet should be issued by the Director (HR) and which position was held by Mr. Azimul Haque. When inquiry proceedings commence, it is not known whether a major penalty or a minor penalty will be imposed on the chargesheeted officer, and therefore, at that stage ordinarily and rightly it is the higher authority which issues the charge sheet and which is the Director (HR) in the present case. If in the facts of this case the petitioner by the appellate authority has not been given a major penalty but only has been given a minor penalty, the same will however not mean that inquiry proceedings conducted against the petitioner were without jurisdiction. Admittedly, the Director (HR) was the authority who was the disciplinary authority with respect to major penalty proceedings against the officers such as the petitioner, who held the Group A post, and therefore, I do not find that departmental proceedings in this case are without jurisdiction as is sought to be argued on behalf of the petitioner.”

38. Suffice to state, the reasoning given by the coordinate Bench of this Court was, since Director (HR) being a higher authority, was competent to impose a higher punishment and as such, can issue charge sheet and impose a minor penalty and the same cannot said to be without jurisdiction. Suffice to state, the said judgment was in the facts of that case and has no bearing insofar as the issue which arises

for consideration in these writ petitions.

39. In view of my above discussion, I do not see any merit in the petitions, the same are dismissed. No costs.

40. It is clarified that this Court has not commented on the orders of penalty passed on the charge sheets.

CM APPL. 2874/2020 in W.P.(C) 890/2020
CM APPL. 10588/2021 in W.P.(C) 3495/2021

In view of the dismissal of the writ petitions as above, these applications are also dismissed.

V. KAMESWAR RAO, J

JANUARY 19, 2022/aky

न्यायमेव जयते