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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 7704/2025

RAKESH MOHAN AGARWAL .....Petitioner

Through: Mr. A.K. Singla, Senior Advocate with Mr. Rahul Shukla, Mr. H.D. Sharma & Mr. Arun Kumar, Advocates.

versus

INDIAN TELEPHONE INDUSTRIES LTD & ORS. .....Respondents

Through: Mr. Shashank Dixit, CGSC with Mr. Kunaj Raj, Advocate for R-1. [M:-8285530205]
Mr. Farman Ali, SPC with Mr. Vidur Dwivedi, GP & Ms. Usha Jamnal, Advocate for R-2, 4 & 5.
Mr. Ravinder Agarwal, Mr. Manish Kumar Singh & Mr. Vasu Agarwal, Advocates for R-3/CVC.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% **01.07.2025**

CM APPL. 37336/2025 (*Application on behalf of the petitioner for directions*)

1. Issue notice. Mr. Shashank Dixit, learned Standing Counsel for the Central Government, accepts notice on behalf of respondent No. 1. Mr. Farman Ali, learned Senior Panel Counsel, accepts notice on behalf of respondent Nos. 2, 4, and 5, and Mr. Ravinder Agarwal, learned counsel, accepts notice on behalf of respondent No. 3.

2. The petitioner's challenge in the captioned writ petition is to a memorandum of charge dated 11.04.2025 issued against him by respondent No. 2 – Union of India, and communicated to him by a communication of respondent No. 1 – Indian Telephone Industries Ltd. ["ITI Ltd."] dated 24.04.2025.

3. The petitioner was an officer of Indian Telecommunication Service. He resigned from the Government service with effect from 27.04.2018, when he was serving as Deputy Director General, Department of Telecommunications. The petitioner's technical resignation was accepted by an order dated 26.04.2018 upon his selection as Director (Marketing), ITI Ltd., which is a public sector enterprise. By an order dated 15.10.2018, he was permanently absorbed in ITI Ltd. with effect from 27.04.2018. It was noted in the said order that he would be eligible for pension and retirement gratuity in accordance with Central Civil Services ["CCS"] (Pension) Rules, 1972, for services rendered under the Government of India until the date of his permanent absorption in ITI Ltd., the computation being made on a *pro-rata* basis.

4. The petitioner served in the post of Director (Marketing) and was subsequently appointed as Chairman and Managing Director ["CMD"], ITI Ltd., with effect from 14.10.2019. He retired from the post of CMD on 30.06.2022.

5. The sanction of the Union of India to his appointment as CMD was conveyed to Company Secretary, ITI Ltd. on 18.03.2021. The terms of the sanction stated that he would be subjected to the Conduct, Discipline and Appeal (CDA) Rules, 1975, framed by the public sector enterprise in respect of their non-workmen category of staff, with the modification that

the disciplinary authority in the case of the petitioner would be the President.

6. The grievance of the petitioner is that the Union of India has issued the impugned chargesheet dated 11.02.2025 under Rule 14 of the CCS (Classification, Control and Appeal) Rules, 1965 read with Rule 7 of CCS (Pension) Rules, 2021, in respect of a period during which he was not an employee of the Government of India but had already been absorbed in the services of ITI Ltd. Mr. A.K. Singla, learned Senior Counsel for the petitioner, submits that the memorandum is accompanied by a single article of charge, which expressly states that he has committed grave misconduct while functioning as CMD, ITI Ltd., during the period from 24.06.2021 to 16.11.2021.

7. The question which arises in these circumstances, is whether the proceedings can be instituted against the petitioner under the CCS (CCA) Rules in respect of conduct during his tenure as CMD of ITI Ltd.

8. Mr. Ali has handed over to the Court a communication of the Respondent No. 4 – Department of Pension and Pensioner's Welfare to the Department of Telecommunication dated 23.11.2023, which clearly notes that Rule 8 of the CCS (Pension) Rules would be inapplicable, as the said Rules are not applicable after absorption in the public sector undertaking. However, the said department has left open the possibility of application of Rule 7 of the CCS (Pension) Rules, which provide that future good conduct would be an implied condition of any grant of pension. A copy of the said advisory is taken on record.

9. It appears to me *prima facie* that, even assuming Rule 7 to be applicable, the question of withdrawal of the petitioner's pension would

be conditional upon the petitioner's conviction for a serious crime or being found guilty of grave misconduct.

10. Further, the question in the present case is more fundamental, which is whether Rule 14 of the CCS (CCA) Rules could at all be invoked, to commence disciplinary proceedings against the petitioner in respect of a period after he had permanently been absorbed in ITI Ltd. In this connection, the petitioner's contention is borne out by reference to the aforesaid communication dated 18.03.2021 itself, to the extent that it applies ITI's CDA Rules to the petitioner. The present proceedings have not been instituted under those Rules, but under the CCS (CCA) Rules.

11. While issuing notice in the present petition on 28.05.2025, the Court granted four weeks' time for filing counter affidavits, and noted that Mr. Singla did not seek interim relief at this stage.

12. The counter affidavits have not been filed within the time granted, but an Inquiring Authority and Presenting Officer have been appointed by orders of the Union of India dated 26.06.2025. The petitioner has therefore approached this Court by way of this application.

13. Alongwith the application, copies of the orders of the Union of India dated 26.06.2025, appointing the Inquiring Authority and Presenting Officer, have also been filed. The said order also contemplates inquiry under Rule 14 of the CCS (CCA) Rules read with Rule 7 of the CCS (Pension) Rules, although it is specifically noted that the petitioner had retired on 27.04.2018.

14. The writ petition thus raises a jurisdictional objection which appears *prima facie* to be merited. The respondents have also not filed replies to the writ petition within the time granted, but instead have

proceeded with the appointment of the Inquiring Authority and Presenting Officer.

15. Having regard to the aforesaid facts, the respondents are directed to file their replies to the writ petition and pending applications within four weeks from today. Rejoinders thereto, if any, may be filed within two weeks thereafter.

16. The inquiry proceedings will be kept in abeyance until the next date of hearing.

17. With the consent of learned counsel for the parties, the next date of hearing is advanced to 11.09.2025.

18. The next date of hearing, i.e., 03.12.2025 stands cancelled.

PRATEEK JALAN, J

JULY 1, 2025

'*pv/JM*'/