



## **Central Administrative Tribunal Principal Bench**

**OA No.1794/2014**

New Delhi, this the 2<sup>nd</sup> day of January, 2020

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Mr. A. K. Bishnoi, Member (A)**

Sh. Om Singh  
S/o Late Girver Singh  
Age 58 years  
Group 'A' Officer,  
Manager, Administration,  
Pay T. No.2747, BBM Depot,  
Delhi Transport Corporation,  
New Delhi ... Applicant.

(By Advocate : Shri N. Gautam with Ms. Swati Gautam)

Vs.

1. The Chairman-cum-MD  
Delhi Transport Corporation  
DTC Hqrs. I.P. Estate  
New Delhi 110 002.

2. The Dy. Chief General Manager  
Nand Nagri Depot  
Through CMD-DTC  
Delhi Transport Corporation  
IP Estate,  
New Delhi 110 002. ... Respondents.

(By Advocate : Shri Kripa Shankar Prasad)

**: O R D E R (ORAL) :****Justice L. Narasimha Reddy, Chairman:**

The applicant was working as Manager in Delhi Transport Corporation in the year 2010. He was appointed as an Inquiry Officer (IO) in the disciplinary proceedings initiated against one Mr. Brijvir Singh. He submitted the report on 06.05.2010, holding the charges against the employee as "Not Proved". The Chairman, DTC, who happened to consider the representation of the concerned employee, has taken the view that the applicant has not conducted the inquiry properly and that there were several lapses. Accordingly, the disciplinary proceedings were initiated against the applicant by issuing a charge sheet dated 27.12.2011.

2. It was alleged that the applicant did not call for the relevant record and he submitted the inquiry report in haste, exonerating the employee. The applicant submitted his explanation by denying the charges. Not satisfied with that, the Disciplinary Authority appointed an IO. Through his report dated 04.09.2012, the IO held the charges framed against the applicant as "Proved". Taking the same into account, the Disciplinary Authority passed Order



dated 31.01.2013 imposing the punishment of stoppage of next due two increments, with cumulative effect. The appeal preferred against the order of punishment was rejected on 02.05.2013. Hence, this OA.

3. The applicant contends that he submitted the inquiry report on 06.05.2010, based upon the record and material placed before him, and even if there was any defect in it, it was open to the Disciplinary Authority therein, either to issue a Disagreement Note or to order *de novo* inquiry, and initiation of disciplinary proceedings against him, i.e., the IO, is an extreme step. He contends that in the disciplinary proceedings initiated against him, the conclusions arrived at, and the punishment imposed, cannot stand in law.

4. The respondents filed the counter affidavit opposing the OA. It is stated that being an IO, the applicant was required to be careful in submitting the report in the disciplinary proceedings, and he has given a report exonerating an employee who was, in fact, guilty of misconduct on several counts. It is also stated that the prescribed procedure was followed in the proceedings against the applicant and the



punishment imposed is proportionate to the acts of indiscipline proved against him.

5. We heard Shri N. Gautam with Ms. Swati Gautam, learned counsel for the applicant and Shri Jatin Parashar for Shri Ajesh Luthra, learned counsel for the respondents.

6. The applicant was appointed as IO in the proceedings initiated against one Mr. Brijvir Singh. In his report dated 06.05.2010, the applicant held the charges against the said employee as "Not Proved". In case the report submitted by the applicant herein was not satisfactory, it was open to the Disciplinary Authority therein, either to issue a Disagreement Note, or to order a *de novo* inquiry. It is not known as to whether the proceedings against Mr. Brijvir Singh were dropped or were conducted afresh.

7. The applicant was issued a charge memo dated 27.12.2011. The allegations against the applicant are contained in the following paragraphs:-

"1. He concluded the enquiry proceedings on 29.3.10. During the entire proceedings, he did not bother to summon the relevant defect registers from Dilshad Garden Depot to ascertain the factual position as to whether the D.E. had attended the work on the specific dates and signed on the defect register, or not, as alleged in the charge sheet. But he summoned the said defect registers from DGD



vide his memo dated 19.4.10 and the same were sent to him by D.M., DGD on 28.4.10 i.e. after he had already concluded the enquiry proceedings. Moreover, even after receipt of the said registers from the depot, he did not call either the reporter or the official who sent the record to him.

2. The entries in the defect registers regarding presence or allocation of work are made by Sh. Ram Singh, Bench. Fitter, B. No. 9494. But he did not call Sh. Ram Singh to depose during the enquiry, which would have confirmed whether the D.E. had attended the work on the specified dates or otherwise.

3. It has been confirmed by Sh. D. K. Gupta, Foreman/reporter as well as Sh. Anil Jain, Asstt. Fitter working as A.I. (W) that there were no entries of the D.E. in the defect register nor any signatures of the D.E. were there at the time when the defect registers were sent to him on 28.4.10. When the said record was received back in the depot, it was noticed that there were signatures of the D.E. in the relevant columns in the defect register. Had the signatures of the D.E. been there on the defect registers, no report against the D.E. would have been submitted and no disciplinary case would have been initiated against the D.E. Moreover, the ink of the signatures of the D.E. on the defect registers appears to be fresh. This clearly shows that the signatures of the D.E. were subsequently got obtained on the defect register in order to give undue benefit to the D.E. with the connivance of his supporting staff.

8. The applicant denied the allegations made against him by submitting the explanation. An IO was appointed and, he, in turn, submitted a report on 04.09.2012 holding the charges as "Proved". The punishment of stoppage of two next increments with



cumulative effect was imposed and the appeal was rejected.

9. The gravity of the allegation against the applicant is that he did not conduct the inquiry properly and he should have summoned the relevant record. Basically, it is the duty of the department and the Presenting Officer, to place the relevant material before the IO, and it is not for the latter to call for any report. If the IO is enrolled with the responsibility to gather material against the delinquent employee, he tends to become partisan and would cease to be neutral. It is not even alleged that the department has placed some material before the applicant when he acted as an IO, and he refused to take the same on record. The lapse, if at all, was on the part of the department. At the same time, it can be stated that the applicant ought to have waited till the relevant record is placed, or given an opportunity to the parties to put forward their respective contentions.

10. We are of the view that the punishment of stoppage of next due two increments with cumulative effect is too severe, if one takes into



account, the extremely minor lapses on the part of the applicant.

11. We, therefore, partly allow the OA and direct that the punishment imposed through order dated 31.01.2013 shall be treated as the one without cumulative effect. The financial benefits as a result of such modification shall be extended to the applicant within a period of two months from the date of receipt of certified copy of this order.

**(A. K. Bishnoi)**  
**Member (A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

/pj/