



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 2860/2014

New Delhi, this the 22nd day of January, 2020

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

H.S. Kaim,
 Aged 56 years,
 S/o Late Shri Nathu Ram,
 R/o Quarter No.614, Sector VIII,
 R.K. Puram, New Delhi-110022
 (Presently working under the
 Land & Building Department,
 Vikas Bhawan, I.T.O., New Delhi-1).

.. Applicant

(By Advocate: Shri Ravi Bhushan)

Versus

1. The Govt. of N.C.T. of Delhi,
 Through its Chief Secretary,
 5th Floor, Delhi Secretariat,
 I.P. Estate, New Delhi.
2. The Chief Electoral Officer,
 Govt. of N.C.T. of Delhi,
 Old St. Stephen's College Building,
 Kashmiri Gate, Delhi.
3. Food Supply & Consumer Affairs Department,
 Govt. of N.C.T. of Delhi,
 Through its Secretary,
 K-Block, Vikas Bhawan,
 I.P. Estate, New Delhi.



4. The Superintendent,
Department of Vigilance,
4th Floor, I.P. Estate,
New Delhi.
5. Land & Building Department | As per order
(Administration Branch), | dated 18.03.2016
B-Block, Vikas Bhawan, |
New Delhi. |

.. Respondents

(By Advocate : Shri Sanjay Kumar Pathak with
Shri K.K. Kiran Pathak,
Shri Sunil Kumar Jha and
Shri M.S. Akhtar for R-5)

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicant joined the service of the Govt. of National Capital Territory of Delhi (GNCTD) as LDC on 14.07.1980 against a vacancy reserved in favour of SC candidate. He was promoted to the post of UDC on 30.04.1987 and as Head Clerk, on 29.03.2003.

2. In the year 2006, the applicant was working as Inspector in Food & Supply Department and was associated with the Prime Minister's Anantyodaya Anna Yojna. The CBI registered three criminal cases against the applicant alleging that he was instrumental in



preparation of 52 fictitious cards, enabling the persons to avail the benefits. A show cause notice dated 19.11.2008 was issued to him for dereliction of duties.

3. The DPC for promotion to the next higher post of Grade-I (DASS) met on 28.01.2011. The applicant was within the zone of consideration and the DPC took into account, his record also. However, since it is informed that three criminal cases were pending against him, sealed cover procedure was adopted.

4. The applicant states that he was acquitted by the Criminal Court, through its judgments dated 24.11.2012 and 27.11.2012, and despite that, the sealed cover was not opened. It is also stated that on the basis of the observation made by the Criminal Court, a charge memorandum was issued to him on 04.10.2006 and, ultimately, the Disciplinary Authority (DA) passed an order dated 27.03.2019, imposing the punishment of 'Censure'. The applicant retired from service on attaining the age of superannuation on 30.06.2019.



5. In this O.A., the applicant claims the relief in the form of a direction to the respondents to promote him to the next higher post, i.e. Grade-I (DASS), with all consequential benefits. He submits that when the sealed cover procedure was adopted only on the basis of pendency of the criminal cases, it was required to be opened, once he was acquitted in the cases.

6. Respondents filed a counter affidavit opposing the O.A. It is stated that though the sealed cover procedure was adopted in the case of the applicant by mentioning the pendency of the criminal cases, occasion to open the same did not arise as the Criminal Court itself directed initiation of departmental proceedings. It is stated that once punishment of 'Censure' was imposed upon the applicant, the question of opening the sealed cover did not arise.

7. We heard Shri Ravi Bhushan, learned counsel for the applicant and Shri Sanjay Kumar Pathak, learned counsel for respondent No.5.



8. The relevant facts are stated, within the permissible limits of brevity, in the preceding paragraphs. The sealed cover procedure was adopted in the case of the applicant, the DPC met on 28.01.2011 for promotion to Grade-I DASS, since the applicant was facing the criminal cases.

9. It is no doubt true that the applicant was acquitted by the Criminal Court on 27.11.2012, i.e., one year after the DPC met. Had it been a simple acquittal, the respondents would have been certainly under the obligation to open the sealed cover. However, it is not in dispute that the Criminal Court, while acquitting him, directed initiation of disciplinary proceedings. With some delay, a charge memorandum was issued on 04.10.2016. In a way, the charge memorandum is in continuation of those very proceedings. That, in turn, ended up in imposition of punishment of 'Censure' on 27.03.2019, just few days before the retirement of the applicant. Once the applicant was imposed with the punishment of



Censure, the question of opening the sealed cover during its currency does not arise.

10. We do not find any merit in the O.A. and, accordingly, the same is dismissed. There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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