



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 3695/2019

New Delhi, this the 20th day of December, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

Sh. Pankaj Bansal,
Group 'A',
Presently DSP, CBI,
International Police Co-Operation Unit
(INTERPOL),
S/o Late Sh. R. K. Bansal,
Aged about 47 Years,
R/o 108/4, Sector-I,
Pushp Vihar,
New Delhi – 110017.

...Applicant

(By Advocate: Mr. Nitesh Kr. Singh, Mr. Chirag
Tuteja and Ms. Roshanaara)

Versus

1. Ministry of Personnel, Public
Grievances & Pensions,
Department of Personnel & Training,
Through its Secretary,
AVD-II(B) Branch, North Block,
New Delhi.
2. Ministry of Home Affairs,
Through its Secretary,
North Block, Central Secretariat,
New Delhi – 110001.
3. Central Bureau of Investigation,
Through its Director,
Plot No. 5-B, CGO Complex,
Lodhi Road,
New Delhi – 110003.

...Respondents

(By Advocate: Mr. Hanu Bhasker)



O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman:-

The applicant is working as Deputy Superintendent of Police (DSP) in the Central Bureau of Investigation (CBI). Disciplinary proceedings were initiated against him by issuing a charge memorandum dated 30.01.2017. It was in relation to his acts and omissions while functioning as Assistant Director in the Ministry of Home Affairs (MHA). The applicant submitted his explanation and the inquiry is in progress.

2. The applicant made a representation dated 08.08.2019 with a prayer to withdraw the disciplinary proceedings, taking the plea that the Appointing Authority for the post of DSP is the Hon'ble Prime Minister and the charge memorandum was issued by the Minister of State (MoS), Prime Minister's Office (PMO). His further plea was that though there exists some arrangement vide PMO ID dated 06.01.2015, the MoS has exceeded the powers conferred therein. Dealing with this representation, the concerned authority passed an order dated 12.09.2019. It



was mentioned that the power regarding appointment up to the level of Joint Secretary was delegated to MoS, PMO and that he will be the Competent Authority to act as Disciplinary Authority (DA). This OA is filed challenging the said order dated 02.09.2019 as well as the charge memorandum dated 30.01.2017.

3. The applicant contends that the Prime Minister happens to be the Appointing Authority for the post of DSP and he alone could have issued the charge memorandum. He submits that the so called delegation relied upon by the respondents is insufficient and inadequate for conferring power of Disciplinary Authority on the MoS. Reliance is placed upon the Judgment of Hon'ble Supreme Court in **Union of India & Ors. Vs. B.V. Gopinath**, Civil Appeals No. 7761/2013.

4. We heard Mr. Nitesh Kr. Singh, Mr. Chirag Tuteja and Ms. Roshanaara, learned counsel for the applicant and Mr. Hanu Bhasker, learned counsel for the respondents at length at the stage of admission.



5. The applicant is facing disciplinary proceedings on being issued charge memorandum dated 30.01.2017. Earlier, he filed OA No. 769/2017 before this Tribunal challenging the validity of the charge memorandum. The ground urged by him was that the charges framed against him are not true and that he is not guilty of the acts alleged against him. After hearing both the parties, this Tribunal dismissed the OA on 06.03.2017.

6. Once the charge memorandum was challenged in the OA No. 769/2017, it is impermissible for the applicant to challenge that by filing another OA. The mere fact that the applicant came to know about some material in his favour does not constitute the basis for filing another OA. At the most, he could have filed a review in the earlier OA or pursued other remedies. This OA is barred by the principle of constructive *res-judicata*.

7. On merits also, we have examined the various grounds urged by the applicant. In respect of his plea that the charge memorandum was



issued, by an authority not vested with the power,
the order dated 12.09.2019 was issued, and it
reads as under:-

“Subject: Disciplinary proceeding for major penalty against Shri Pankaj Bansal, Dy. SP, CBI, IPCC, New Delhi (the then Assistant Director, MHA, New Delhi)-reg.

1. CBI may kindly refer to the representation dated 08.08.2019, submitted by the Charged Officer (CO). Shri Pankaj Bansal, DSP, CBI (copy enclosed).
2. Vide the above mentioned representation; CO has contended that Charge Memorandum issued against him with the approval of MoS (PMO) is without jurisdiction as the Disciplinary Authority is Hon'ble Prime Minister, being Minister-in-charge of Ministry of Personnel and not Hon'ble MoS (PMO).
3. In this regard, it is stated that Estt. Division of this Department and ALA, DoLA both have endorsed the view that “since the power regarding appointment in respect of post upto the level of Joint Secretary have been delegated to MoS (PMO), he will be the competent authority to act as disciplinary authority”.
4. In view of the above, the contentions made by the CO in his representation dated 08.08.2019 are baseless and do not hold any merit and his request to withdraw the Charge Memorandum dated 20.01.2017 against him, is hereby rejected by the Competent authority. Informing this position, the CO be asked to cooperate with the inquiry proceedings, so that the inquiry may reach its timely completion.
5. It is also observed that the time period for completion of inquiry has expired on 17.07.2019. Therefore, the IA be requested to submit the reasons for delay and seek extension of time from the Competent Authority for completing the inquiry proceedings.”



8. In Para-3 of the order dated 12.09.2019 extracted above, it was clearly mentioned that the power regarding appointment in respect of posts up to the level of the Joint Secretary has been vested with the MoS (PMO). Once the MoS is vested with the power of Appointing Authority, it takes in its fold, the powers of Disciplinary Authority also. The mere fact that the Appointing Authority may nominate another officer as Disciplinary Authority, does not by itself, bring about a situation that these two authorities are independent of each other. When the Appointing Authority can himself initiate disciplinary proceedings and it can nominate another, the delegation of power to another authority does not leave any scope for such an argument.

9. Strictly speaking, there does not exist any delegation or sub-delegation in matters of this nature. As between the Cabinet Minister on one hand and Minister of State on other, the arrangement is one of allocation and not of delegation. The business rules are framed in such a way that a Minister in a Cabinet acts as a representative of the President and not as a



delegatee. Therefore, the concept of delegation or sub-delegation does not exist in matters of this nature.

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

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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