



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 648/ 2016

Reserved on: 29.01.2020
Pronounced on: 31.01.2020

**Hon'ble Mr. S.N.Terdal, Member (J)
Hon'ble Mr. Mohd Jamshed, Member (A)**

Vir Karan Chugh,
Age 60, Designation- Surveyor,
S/o Late Sh. L.D.Chugh,
R/o WZ 17/1 E-15 First Floor,
Mukerjee Park, Tilak Nagar,
Near Chaukandi Road, New Delhi.

... Applicant

(By Advocate: Dr. Ashwani Bhardwaj)

VERSUS

1. Government of N.C.T. of Delhi,
Through the Lt. Governor,
Chairman, DDA, Raj Niwas,
Rajpur Road, New Delhi.
2. Commissioner (P) DDA,
Delhi Development Authority,
Vigilance Branch, Vikas Sadan,
INA, New Delhi. .. Respondents

(By Advocate: Mr. Arun Birbal)

O R D E R

Hon'ble Mr. S.N.Terdal, Member (J):

We have heard Dr. Ashwani Bhardwaj, counsel for applicant and Mr. Arun Birbal, counsel for respondents, perused the pleadings and all documents produced by both the parties.



2. In this OA, the applicant has prayed for the following reliefs:

- "(a). Quash all the Notice No. F.25(8)98/Vig./ACB/2700/3031 dated 24.03.2009, Order No. 396/Vig/2009/7/26/7675 dated 27.08.2009, Memorandum No. F. 25 (8) 98/Vig/ ACB/ 4833 dated 27.04.2010, Notice dated 20.07.2015 and Order No. 174/Vig/2015/8192 dated 06.10.2015, and
- (b) Direct the respondents to reinstate the applicant with all consequential benefits of pay allowances, benefits of ACP, seniority and promotion, all arrears, which the applicant would have been entitled to, had the above impugned orders were not passed by the respondents, and
- (c) Award consequential benefits of pay, allowances, seniority to the Applicant, and grant cost in favour of the Applicant and pass any other or further order(s), in favour of the applicant, which this Hon'ble Tribunal may deem fit, just & proper in the above-mentioned facts & circumstances."

3. The relevant facts of the case are that the applicant was working as Surveyor with respondent-DDA. The Anti Corruption Bureau (ACB) of the Govt. of NCT of Delhi registered FIR against the applicant under Section 7 and 13 of the Prevention of Corruption Act, 1988 and after the trial the Special Judge Delhi vide its judgment dated 16.01.2009 convicted the applicant under the above said provisions and sentenced him to undergo rigorous imprisonment (RI) for a period of three years and also imposed a fine of Rs.10,000/-. On receipt of the said judgment, the disciplinary authority issued a show cause notice asking the



applicant to show cause as to why the penalty of termination from service be not imposed on him by exercising the power under Regulation 30(1) of DDA Conduct, Disciplinary and Appeal Regulation, 1999. The applicant submitted his reply to the show cause notice. After considering the representation, the disciplinary authority taking a lenient view, imposed a penalty of compulsory retirement on the applicant with one third cut in pension vide order dated 27.08.2009. Thereafter while hearing some other disciplinary case, the Lt. Governor, who is also the Chairman of DDA learnt that the disciplinary authority has taken a lenient view with respect to some serious offences of corruption, as such identifying the case of the applicant, the Lt. Governor in the capacity of Chairman issued a show cause notice on 20.07.2015 to the applicant proposing to enhance the punishment. The applicant submitted his reply. After considering the reply in exercise of the jurisdiction vested with him under Regulation 32-G of DDA Conduct, Disciplinary and Appeal Regulations, 1999 imposed a penalty of removal from service on the applicant.

4. The counsel for the applicant vehemently and strenuously submitted that the disciplinary authority having passed the penalty order in 2009, after 5 years and after undue delay, in the guise of exercising the revisional power, illegally and the punishment of



removal has been passed by a non speaking order without hearing the applicant personally and that the punishment imposed is shocking disproportionate to the alleged misconduct, though the applicant has put in 26 years of unblemished service.

5. The counsel for the respondents equally vehemently and strenuously submitted that there is no time limit for the exercise of the power of the revision by the Chairman under Regulation 32-G of the above said Regulations and that under Regulation 23 of the said Regulation in every case in which the charge of acceptance of any gratification is established the penalty to be imposed is removal from service and that as the written submissions have been considered there is no need to give personal hearing. The counsel for the respondents also referred to the detailed counter filed by the respondents in this regard. The relevant portions of the averments are extracted below:-

"(vi) That during the personnel hearing in a disciplinary case of one Mehroz Khan, Junior Engineer (Civil) of DDA, the then Hon'ble Chairman/Lt. Governor of Delhi was informed that in some cases involving corruption followed by conviction, the disciplinary authorities at DDA had not imposed the penalty of termination of services. In the circumstances the Hon'ble Chairman/Lt. Governor of Delhi directed the Vigilance Department of DDA to identify all such cases and submit the same for his consideration. The Vigilance Department of DDA identified six such cases and the cases were submitted to the Lt. Governor in his capacity of Chairman DDA for consideration.



(vii).That after examining the cases, the Hon'ble Chairman/Lt. Governor of Delhi prima facie felt satisfied that those were fit cases where the jurisdiction vested in the said authority under regulation 32-G of DD (Conduct, Disciplinary and Appeal) regulation, 1999 be exercised and thus the said authority (Hon'ble LG) ordered that fresh show cause notices be issued to the concerned officials who were convicted by the court of law in cases involving corruption with a view to give them an opportunity to represent against the proposed penalty of removal or dismissal. The case of the present applicant is one of those six cases. Accordingly a show cause notice dated 20.07.2015 was issued to the applicant permitting him to file the representation/reply in the matter. The applicant filed his replies/representations dated 24.07.2015 and 04.08.2015. Thereafter, the Hon'ble LG vide order dated 07.09.2015 in exercise of the jurisdiction vested in the said authority under regulation 32-G of DDA (Conduct, Disciplinary and Appeal) Regulations 1999 directed that penalty of removal be imposed upon the applicant. The applicant was informed accordingly.

(viii) That it is respectfully submitted that it is not in dispute that the applicant stands convicted of an offence involving corruption by a competent court of law. Though the appeal filed by the applicant is pending for consideration before the Hon'ble High Court, he remains under stigma of conviction. The order of conviction has neither been stayed nor set aside till date. In the circumstances, the only appropriate punishment in the matter was that of termination of services of the applicant. Regulation 23 of DDA (Conduct, Disciplinary and Appeal) Regulations 1999 stipulates that in every case in which the charge of acceptance from any person of any gratification, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act is established, the penalty mentioned in clauses (i) or clause (j) shall be imposed. It is also stipulated that in any exceptional case and for special reasons recorded in writing, any other penalty may be imposed. Clause (i) is in respect of removal from service which shall not be disqualification for further employment. Clause (j) is in respect of dismissal from service which shall ordinarily be a disqualification for



further employment under the government. The present cannot be considered as an exceptional case deserving less than normal punishment. In any event, this Hon'ble Tribunal may not like to act as an appellate authority over the decision of the competent administrative authority on this issue. It is respectfully submitted that present OA is without any merits and is liable to be dismissed as such."

6. In view of the facts and circumstances and the provisions of the above said Regulations and the averments which have been extracted above, we are of the opinion this OA is devoid of merit.

7. Accordingly, OA is dismissed. No order as to costs.

(Mohd. Jamshed)
Member (A)

(S.N.Terdal)
Member (J)

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