

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.2091/2020

Today this the 17th day of December, 2020

Through video conferencing

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

Ram Swaroop Chandel (Age 58 years)
S/o Sh. Dhani Ram
R/o D-II/1, DMS Colony
West Patel Nagar, Shadipur Depot
New Delhi-110008
Group 'A' Designation Manager (Distribution)
Delhi Milk Scheme, GOI ...Applicant

(By Advocate: Mr. Yogesh Kr. Mahur)

Versus

Union of India through Secretary
Department of Animal Husbandry and Dairying
Ministry of Fisheries, Animal Husbandry and Dairying
Krishi Bhawan, New Delhi
New Delhi. ..Respondent

(By Advocate: Mr. Vijendra Singh)

Order (Oral)

Justice L. Narasimha Reddy:

The applicant is working as Deputy General Manager (equivalent to Deputy Secretary), in the respondent department. He was arrested on 22.03.2018 as a sequel to the trap laid by CBI. On the same date, he was placed under suspension. Later on the applicant was released on bail on 01.05.2018. The order of suspension was revoked and he was reinstated into service in the month of November, 2019. The trial court discharged the applicant in the criminal case, through its judgment dated



19.01.2019. A Criminal Revision Petition No.1100/2019 filed by the respondents was dismissed by the High Court on 30.09.2020.



2. The Disciplinary Authority issued a charge memo dated 25.09.2020 to the applicant. The only charge levelled against him was about the alleged demand and acceptance of amount from private agencies giving undue favour like acceptance of inferior quality of milk, awarding of further milk contracts. This OA is filed challenging the charge memo dated 25.09.2020.

3. The applicant contends that the allegations in the criminal case are only about the alleged demand and acceptance of illegal gratification and once he was discharged in that case, and the Hon'ble High Court confirmed the same, there was absolutely no basis for the respondents in issuing the present charge memo.

4. We heard Mr, Yogesh Kumar Mahur, learned counsel for the applicant and Shri M.S. Reen, learned counsel for the respondents at the admission stage through video conferencing.

5. It is a matter of record that the trap was laid by the CBI against the applicant and a sum of Rs.86,000/- is said to be have been recovered from him. A case was registered against the applicant under the Prevention of Corruption Act by the CBI. However that ended in discharge of the applicant through judgment dated 19.01.2019 and it was upheld by the High Court in Criminal Revision Petition No.1100/2019 on 30.09.2020.



6. We are aware of the fact that in case an employee was tried for an offence on certain charges and he was acquitted after full trial and on specific finding, the departmental proceedings on the same set of facts, tends to become untenable. Such instances are rare. Time and again, the Hon'ble Supreme Court held that the standard of proof in criminal cases is substantially different from one in the departmental proceedings.

7. In the instant case, the applicant was not acquitted in the criminal proceeding not as a result of any trial. On the other hand, he was discharged, before the case went into trial. Therefore, the occasion for re-examining the same set of witnesses, in the departments proceedings does not exist at all. The only Article of charge against the applicant reads as under:-

“Article of Charge

That Shri Ram Swaroop Chandel while functioning as Deputy General Manager (Technical) in Delhi Milk Scheme (DMS), West Patel Nagar, New Delhi indulged in corrupt and illegal activities in connivance with private persons. He demanded and accepted illegal gratification from Shri Sudhir Khera of M/s Tasty Dairy Ltd., Kanpur Dehat, Uttar Pradesh (UP) and Shri Ashok Kumar of M/s Aman Dairy Ltd., Alwar, Rajasthan in return of illegal and undue favours such as easy acceptance of inferior quality of milk, awarding of further milk contracts etc.

By these acts, Shri Ram Swaroop Chandel failed to maintain absolute integrity and executed a conduct of unbecoming of a Government servant and also misused his official position, thereby violating Rule 3 (1)(i) and (iii) of the Central Civil Service (Conduct) Rules, 1964.”



9. The charge does not depend upon the conviction in any criminal case. Though the statement of imputations refers to the developments pertaining to the relevant trap, the manner in which the charge against the applicant needs to be proved would substantially be different from the trial in a criminal case. We are not inclined to interfere with the charge memo.

10. The OA is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/lg/rk/vb/sd