

Central Administrative Tribunal  
Principal Bench, New Delhi



OA No.2592/2016  
MA No.1546/2020

Today this the 19<sup>th</sup> day of November, 2020

Through video conferencing

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

Vijay Kumar Saluja, EE (Civil)  
Aged about 57 years,  
S/o Sh. Krishan Lal Saluja,  
R/o C-7/52, S. D. A., Hauj Khas,  
New Delhi 110 016. .... Applicant

(By Mr. M. K. Bhardwaj, Advocate)

Versus

1. Delhi Development Authority  
Through its Vice Chairman,  
Vikas Sadan, New Delhi.
2. The Engineer (Member)  
Delhi Development Authority,  
B-Block, Vikas Sadan,  
New Delhi. .... Respondents.

(By Advocate : Mrs. Sriparna Chatterjee)

**Order (Oral)**

**Justice L. Narasimha Reddy:**

The applicant was working as Executive Engineer in Delhi Development Authority (DDA) in 2016. He was issued a charge memorandum dated 20.06.2016. The allegation was that he did not exhibit proper care and supervision for construction of SFS Houses by the DDA between 1998 to 2001, and as a result, several structural stresses have been noticed. The allegation against him was about negligence and lack of proper supervision. This OA is filed challenging the charge memo.



2. The applicant contends that the allegation was made on the basis of a report published in the Hindustan Times in July 2015 and promptly enough the Vice Chairman of DDA ordered an inquiry. It is also stated that in the Inquiry Report dated 28.07.2015, the Inquiry Officer has reported that the cracks in the roof and other defects in the structure were on account of improper post construction maintenance and that the same was accepted by the Chairman also, and despite that, the impugned charge memorandum was issued. Various other grounds are also urged.

3. On behalf of the respondents a detailed counter affidavit is filed. It is stated that the flats remained vacant for some time, awaiting water and electricity connections, and as soon as the flats were allotted, the allottees have complained about the defects in the structures. It is mentioned that as a special measure, repairs were carried out and long ago it was decided to identify the persons who are responsible and accordingly a charge memorandum was issued to the applicant. It is stated that the truth or the otherwise of the allegations against the applicant can be verified only in the departmental inquiry and the charge memo cannot be interfered with.

4. If one just looks into the allegation in the charge memorandum, and its date, an impression will be gained that the charge memorandum was issued 15 years after the alleged incident. However, the respondents have explained the consequence of events that have taken place ever since the flats were allotted to the allottees. It is stated that as soon as the



allotments were made, the allottees started complaining and thereafter a decision was taken to; (a) immediately remove the defects and (b) to identify the persons responsible for the same.

It is also mentioned that in case it emerged that poor construction was on account of negligence on the part of the contractors, a decision would also be taken to black list them.

According to them, the administrative steps taken at various stages has delayed the actual initiation of disciplinary proceedings and ultimately the charge memorandum was issued.

5. We heard Shri M. K. Bhardwaj, learned counsel for the applicant and Mrs. Sriparna Chatterjee.

6. The circumstances under which the Tribunal can interfere with the charge memorandum are fairly well known. It is only when a charge memorandum is issued by an authority not vested with the power or where it emerges that the charges are contrary to the specific provisions of law, that an occasion to interfere with it would arise. Though the delay in initiation of proceedings is another factor, it is very rare and much would depend upon the nature of explanation as regards the delay between the actual occurrence and the date of issuance of charge memo.

7. We are satisfied with the reasons mentioned in the para 2 of the counter affidavit, about the apparent delay. At the same time, various pleas urged by the applicant in this OA such as that a report was submitted by a Chief Engineer or the other persons connected with the construction activity were left out



needs to be taken into account, by the Inquiry Officer as well as the Disciplinary Authority (DA). Applicant has since retired from service. The disciplinary proceedings could not be progressed on account of the interim order passed by the OA.

7. Though reliance is placed upon certain judgments in Writ Petition No.8094/2009, and Hon'ble Supreme Court, we find that the facts of those cases are substantially different from the facts of this case.

8. We, therefore, dispose of the OA declining to interfere with the charge memo but directing that the proceedings shall be resumed and concluded within a period of six months from the date of receipt of a copy of this order, and that the IO as well as the DA shall take into account, the various pleas raised by the applicant.

( A. K. Bishnoi )  
Member (A)

( Justice L. Narasimha Reddy )  
Chairman

/pj/ns/ankit/sd