

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

**O.A. No.4272/2016
M.A. No.178/2021**



Today this the 10th day of February, 2021

Through video conferencing

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

V. K.Jain, S/o. Late Shri A. P. Jain
Age 44, A.E.
R/o. B-1, Friends Apartments,
49, I. P. Extension,
Delhi.

...Applicant

(By Advocate :Mr. Rajeev Sharma)

Versus

1. Lt. Governor of Delhi,
Raj Niwas, Civil Lines,
Delhi.
2. The Commissioner,
East Delhi Municipal Corporation,
419, UdyogSadan, 2nd Floor,
Patparganj, Ind. Area,
Delhi – 110 092.

...Respondents

(By Advocate : Ms. EshaMazumdar and Mr. M. S. Reen)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :**

The applicant was working as Assistant Engineer in the Municipal Corporation of Delhi by the year 2009. A charge memo was issued to him on 04.03.2009 alleging that he did not take adequate steps to prevent unauthorized construction in the area of operation. The applicant submitted his explanation denying the charges. Not satisfied with that, the Disciplinary Authority appointed the Inquiry Officer. After conducting a detailed inquiry, the Inquiry Officer submitted his report on 03.02.2015 holding that the charges framed against the applicant are not proved.

2. The Disciplinary Authority issued a disagreement note on 29.07.2015, stating that he has tentatively decided to disagree with the findings and required the applicant to submit his explanation. The applicant submitted his explanation on 21.08.2015. Taking the same into account, the DA passed an order dated 05.11.2015, imposing the punishment of stoppage of two increments with cumulative effect against the



applicant. The appeal preferred by the applicant was dismissed on 27.04.2016, on the ground of limitation. Aggrieved by that, the applicant filed OA No. 2485/2016. It was partly allowed on 19.08.2016 setting aside the order of the Appellate Authority. A direction was issued for passing a detailed and reasoned order. Thereafter, the Appellate Authority passed an order dated 31.10.2016, rejecting the appeal by mentioning that there was undue delay on the part of the applicant. This OA is filed challenging the order of punishment dated 05.11.2015, as upheld by the appellate authority on 31.10.2016.

3. The applicant contends that despite the specific direction issued by the Tribunal in OA No.2485/2016, the AA did not discuss the matter on merits and once again the appeal was rejected on the ground of delay. On merits, it is stated that the charge was held not proved by the Inquiry Officer and without any valid reason or basis DA has disagreed with the same. The applicant contends that it was basically the duty of the Junior Engineer to maintain the Register of Construction and the remedial steps, but he was punished for something which is not part of his duty. Various other contentions are also urged.



4. Respondents filed reply opposing the OA. It is stated that the charges framed against the applicant are very serious in nature and they are borne out by record. It is contended that the IO proceeded on hypotechnical basis and has submitted his report stating that the charges are not proved. It is mentioned that the DA has examined the matter in detail and issued a disagreement note, furnishing valid reasons and that punishment was imposed, commensurate with the gravity of the charge. As regards rejection of the appeal, it is stated that the AA was not satisfied with the reasons assigned by him and for delayed representation thereof.

5. We heard Mr. Rajeev Sharma, learned counsel for applicant and Mr. Manjeet Singh Reen, learned counsel for respondents in detail.

6. Though, one of the grounds urged in the OA is about the legality of the order passed by the AA. We propose to examine the order of punishment itself. Even otherwise the AA has furnished cogent reasons sometimes skipping into merits also, and ultimately rejected the appeal of the applicant. Since we are proposing to deal with the order of punishment itself it is not necessary to record the specific finding about the order of the AA. The record discloses that the JE was



imposed the punishment for dereliction of duty in this behalf. The plea of the applicant that the whole episode can be closed with the punishment imposed upon the JE cannot be accepted.

7. The charge against the applicant was the one, of negligence or dereliction of duty in taking steps against the unauthorized construction. The relevant portion reads as under :-

“1. He failed to get stopped/demolished the unauthorized construction in the properties mentioned in Annexure ‘A’ at their initial/ongoing stages.

2. He also failed to get initiated action for sealing the unauthorized construction u/s 345-A and for prosecution of the owner/builder u/s 332/461 or to file a complaint u/s 466-A of DMC Act.

3. He also failed to get maintained construction watch register and also to carry out test checks to the extent of 40% of unauthorised constructions inspite of instructions laid down vide Circular No. D/476/Addl. Cm. (Engg.)/2001 dated 20.08.2001.

4. He also failed to get initiated action for disconnection of water/electricity supply of the premises to prevent the unauthorized construction.

5. He failed to exercise proper supervision and control over the functioning of his subordinate JEs who did not take proper and time action against the unauthorized construction.”



8. A list of about 300 properties which are said to have come into existence, without valid permission or otherwise, was appended. The other officers including the JE were also issued the charge memo in this behalf.

9. On denial of the charge by the applicant, IO was appointed. In his report running into about 10 pages, the IO mostly went by the logical reasoning and ultimately held that the charge is not proved. The DA issued a disagreement note indicating the reasons which prompted him to tentatively conclude that the charges can be treated as proved. The main contention of the applicant was that the list of properties was with the JE and he was required to examine only 40% of such properties. Even if that is true, the applicant did not mention as to which of the properties he has visited and what action he has taken. As a superior officer, he cannot brush aside his responsibility and throw the entire blame on the junior alone. The purpose of having officers of the higher level in the hierarchy is to ensure that everything takes place in accordance with the prescribed procedure and law. If the entire obligation was on the JE alone, there is no purpose of having the post of AE at all.



10. There exists responsibility on the part of the AE also for the lapses in the context of mushrooming of unauthorised constructions. The issue was such that the Hon'ble High Court had to intervene and issue directions against the unauthorized constructions. Despite that, the applicant remained silent and there was no action on his part. We are of the view that the DA has arrived at a proper conclusion and it cannot be said that the punishment was disproportionate in any manner.

11. We do not find any merit in the OA and the same is accordingly dismissed.

Pending MA No.178/2021 shall stand disposed of.

There shall be no order as to costs.

(Aradhana Johri) (Justice L. Narasimha Reddy)
Member (A) Chairman

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