



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A No. 4513/2017

New Delhi, this the 5th Day of November, 2020

Through Video Conferencing

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

Ram Roop Meena,
EE (Civil), Group (A)
S/o. Shri Ram Sahay Meena,
R/o. Qtr No. C-6, Vikas Puri,
New Delhi – 110 018.Applicant

(By Advocate : Shri M. K. Bhardwaj)

Versus

1. The Lt. Governor,
Government of NCT of Delhi,
Raj Niwas, 5 Sam Nath Marg,
Delhi.
Through its Principal Secretary,
2. South Delhi Municipal Corporation,
Through its Commissioner,
Dr. S. P. Mukherjee Civic Centre,
9th Floor, Minto Road,
New Delhi – 110 002.Respondents

(By Advocate : Shri R. K. Jain)

O R D E R (ORAL)

Hon'ble Ms. Aradhana Johri, Member (A)

The applicant is Executive Engineer (Civil) Group 'A' serving respondent no. 2 and was Assistant Engineer



(Building) in the Rohini zone of the MCD from 23.12.2002 to 09.09.2003 (07.10.2003 as per the respondents). He was subject to disciplinary action and was given charge sheet no. 1/179/2004/CPC Vig./DA III/05/46 dated 08.02.2006. This was a common charge sheet for several officials who handled the particular work at different points of time namely the applicant Shri R. R. Meena, AE (Building), Shri S. R. Ahluwalia, AE (Building), Shri S.P. Garg, JE (Building), Shri V. K. Singh, JE (Building), Shri P. K. Sharma AZI (A&C), Shri R. P. Sharma PHI (Health).

2. The charges pertain to not taking prompt and timely action to get the construction stopped/demolished, for not sealing the unauthorised constructions of B-2, Lawrence Road Industrial Area and its initial and ongoing stage, for failing to launch prosecution against the concerned parties, for failing to disconnect electricity and water supply to the unauthorisedly constructed portion and also for failing to exercise proper supervision and control over the functioning of Shri J. P. Garg, JE.



3. Thereafter, an inquiry was conducted by Director of Inquiries who found the charges 1, 2, 3 and 5 proved against the applicant. Thereafter, after following due process, the disciplinary authority passed the penalty order on 09.06.2009 with the penalty of reduction in pay in the present time scale of pay by two stages for a period of two years with cumulative effect. Upon appeal, the Appellate Authority passed an order on 05.06.2010/07.07.2010 upholding the impugned penalty order.

4. Aggrieved by the penalty, the applicant has filed this O.A in which he has taken several grounds. The main grounds are that the actual work of booking etc is done by the JE while the Executive Engineer is responsible for making the demolition schedule etc. In this manner, he has claimed that responsibility for the said wrong doing lies with his superiors and his subordinates. He has also stated that the routine demolition work has become a low priority because demolitions as ordered by Courts assume the highest priority and often there is no time left for doing routine



demolitions. He has further raised certain questions about appreciation of evidence by the inquiry officer. He has made the following prayer :-

“(a) To quash and set aside the charge sheet dated 08.02.2006, enquiry report dated 09.01.2009, penalty order dated 09.06.2009 and appellate authority order dated 05.06.2010 being illegal and unconstitutional and all consequential effects of the said orders and grant the due service benefits to the applicant withheld on the basis of said orders.”

5. The respondents have denied the claim of the applicant and have stated that a joint departmental inquiry was done against several functionaries on the same set of allegations though each official was issued a separate charge sheet. The inquiry officer took into account all the evidence and then apportioned responsibility on each of the officials charged, according to his area of work and tenure. They have stated that due process was followed and opportunity given to all the charged officers including the applicant. They have further given details of various documents relied upon on the basis of which the charges have been established.

6. We have heard Shri M. K. Bhardwaj learned counsel for the applicant for the applicant and Shri R. K.



Jain, learned counsel for the respondents and perused the documents placed on record.

7. The specific charges framed against the applicant are as follows :-

“Shri R. R. Meena while working as AE(B) in Rohini Zone during the period 23.12.2002 to 07.10.2003, committed lapses on the following counts :-

1. *He failed to take prompt and timely action to get stopped/demolished the unauthorised constructions of deviations and excess coverage carried out at Ground, First and Second Floor of the property No. B-2, Lawrence Road Industrial Area at its initial/ongoing stage and thereby allowed the owner/builder to carry out and complete the unauthorised construction of a huge Banquet Hall in blatant violation of sanctioned bldg. Plan / Master Plan.*
2. *He also failed to get initiated action u/s 345-A of DMC Act for sealing the unauthorised construction carried out in the said property.*
3. *He also failed to get initiated action u/s 332/461 r/w 466-A of DMC Act for launching prosecution against the owner/builder who carried out non-compoundable deviation/excess coverage in contravention of sanctioned bldg. Plan/Master Plan of Delhi.*
4. *He also failed to get initiated action for disconnection of electric supply and water to the unauthorisedly constructed portions of the property.*
5. *He also failed to exercise proper supervision and control over the functioning of Shri S. P. Garg, JE who did not take proper and timely action against the unauthorised construction.*



He, thereby, contravened Rule 3(I) (i) (ii) (iii) of CCS(Conduct) Rules, 1964 as made applicable to the employees of MCD.”

8. The inquiry report gives in detail the charges, the defence relied upon by the charged officials, the case against them as well as the documents that have been relied on by the Inquiry Officer. In a nutshell, the inquiry officer held charges no. 1, 2, 3 and 5 to be proved against the applicant. However, the inquiry officer has not apportioned any responsibility on Shri Garg for a variety of reasons. The tenure of his subordinate JE Shri S. P. Garg was short and he looked after this particular assignment only from 07.03.2003 till 30.06.2003, during which period Shri S. P. Garg booked the property on 26.05.2003 under Section 343/344 of DMC Act, and even tried to take demolition action on subsequent dates which could not materialise due to his transfer from the said area on 30.06.2003. Accordingly, the inquiry officer has held that during the very limited and short tenure of Shri S. P. Garg he did attempt to take some action. The applicant Shri R. R. Meena however, had a longer tenure from 23.12.2002-09.09.2003 (07.10.2003 as per respondent) during



which there was several opportunities for demolition on 06.03.2003, 26.05.2003, 02.06.2003, 23.07.2003, 26.08.2003, 02.09.2003, 23.09.2003 11.11.2003, 12.02.2004 and 21.04.2004, but no demolition was carried out. On account of this he further held that where the Executive Engineer (Building) fixed demolition programmes, but these were not carried out by the applicant. As per the inquiry officer, the entire unauthorised constructions/deviations/excess coverage started and was completed during the tenure of the applicant but he made no efforts to get the building demolished except getting the property booked in a routine manner. Similarly, he has held that Shri Meena did not take any action for sealing of the said property or to launch prosecution proceedings against the owner/builder.

9. However, keeping in mind the charges and the quantum of penalty imposed, we direct that the penalty may be modified to the extent that it would be without cumulative effect and would read as follows :-



“Reduction in pay in the present time scale of pay by two stages for a period of two years without cumulative effect”.

10. The O.A is accordingly decided. No arrears would be payable.

(Aradhana Johri)
Member (A)

(Justice L. Narsimha Reddy)
Chairman

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