

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL  
BENCH, NEW DELHI**

**O.A.No.100/803/2020**

**New Delhi this the 10th day of July 2020**

**THE HON'BLE MR.JUSTICE L.NARASIMHA REDDY, CHAIRMAN  
THE HON'BLE MS.ARADHANA JOHRI, MEMBER (ADMN.)**

**Between:**

Sh.Pradeep Kumar Berwah,  
s/o Sh.Ratan Lal Berwah,  
Aged about 58 yrs, Group-A,  
Chief Controller of Accounts,  
M/o Power, Sewa Bhawan,  
New Delhi-110 066

Email: [pradeepberwah@gmail.com](mailto:pradeepberwah@gmail.com)

...Applicant

(By Advocate:Mr.Sanjiv Joshi, Counsel for the Applicant)

**A N D**

1. Union of India, through its Secretary,  
Department of Expenditure, M/o Finance,  
North Block, New Delhi.

2. Smt.Suman Bala,  
Joint Controller General of Accounts (Vigilance),  
O/o the Controller General of Accounts,  
Mahalekha Nyantrak Bhawan, E-Block,  
INA, New Delhi,  
Email: [jt-cga@gov.in](mailto:jt-cga@gov.in)

3. Shri Ajai Kumar Srivastava,  
Inquiry Officer and the Retired Deputy Secretary,  
306, Pratkar Apartments, Sector-5, Vasundhra,  
Ghaziabad-201 012,  
Email: [ajaisrivastava5257@gmail.com](mailto:ajaisrivastava5257@gmail.com)

4. Shri Anthony Lianzuala,  
Ex-Controller General of Accounts,  
C-I11, Pandara Park,  
New Delhi-110 003,  
Email: [alianzuala@hotmail.com](mailto:alianzuala@hotmail.com)

...Respondents

(By Advocate: Mr.Gyanendra Singh, Counsel for the Respondents)

**: ORDER (ORAL):**

**(By Hon'ble Mr.Justice L.Narasimha Reddy, Chairman)**

The applicant is an officer of the Indian Civil Accounts Services (ICAS) and is working in the Ministry of Finance. The President proposed to hold inquiry against the applicant and accordingly a memorandum was issued on 22.03.2019. This OA is filed challenging the memorandum dated 22.03.2019 and the order dated 29.08.2019, through which the 4th respondent was appointed as Inquiry Officer.

2. The applicant contends that the order dated 22.03.2019, though issued in the name of President, was signed by the 2nd respondent i.e., the Joint Controller General of Accounts, and that the same is untenable in law. As regards the appointment of the 4th respondent as Inquiry Officer, the applicant contends that if the position and status held by him is taken into account, the 4th respondent does not have the capacity to act as an Inquiry Officer, since he retired in the rank of Deputy Secretary. According to the applicant, the Inquiry officer can be only the one, who is superior to him in rank.

3. The OA was taken up for admission on 11.06.2020 and notice was issued on that date. Thereafter, it was listed on 25.06.2020. Though the respondents did not file any reply, we heard Shri Sanjiv Joshi, learned counsel for the Applicant and Shri Gyanendra Singh, learned counsel for the Respondents, at length.



4. The challenge in this OA is to –

- (a) the order dated 22.03.2019 issued in the name of President proposing to conduct inquiry against the applicant; and
- (b) the order dated 29.08.2019, through which the 4th respondent was appointed as Inquiry Officer .

5. So far as the order dated 22.03.2019, is concerned, it is evident that it was issued by the President of India, proposing to conduct inquiry against the applicant. The main ground of challenge is that it is signed by the Joint Controller General of Accounts (the 2nd respondent herein). It is fairly well known that the President never puts signature on an order and there are business rules or protocol, which authorizes the concerned officials to issue the order. The applicant is not able to point out any serious defect in this behalf. Further, since the matter is at the threshold, we do not find it appropriate to go deep into that aspect. In case, any adverse action is proposed against the applicant, as a result of the inquiry, it shall be open to him to point out the specific defect, if any, in this behalf.

6. Coming to the appointment of the 4th respondent as Inquiry Officer, the applicant contends that the Inquiry Officer is inferior to him in rank. We would have appreciated that contention had the 4th respondent been in service. Admittedly, he is a retired employee.





7. The learned counsel for the Respondents submits that according to the instructions issued by the DOP&T, the equation or comparison of ranks in the context of appointment of Inquiry Officer in a disciplinary proceeding does not become relevant when the Inquiry Officer is a retired employee. We do not intend to make it a final pronouncement in this behalf. We leave it open to the applicant to raise the objection as regards this.

8. We, therefore, dispose of the OA leaving it open to the applicant to submit a representation within one week from today to the Disciplinary Authority raising his objection as regards the competence of the 4th respondent to function as Inquiry Officer. On receipt of such representation, the Disciplinary Authority/the authority, who passed the order dated 29.08.2019, shall pass orders within two weeks thereafter. Till such order is passed, the inquiry shall not be proceeded with.

9. There shall be no order as to costs.

**( ARADHANA JOHRI )**  
**MEMBER (A)**

**( JUSTICE L.NARASIMHA REDDY )**  
**CHAIRMAN**

Dsn/ravi/mbt