



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

O.A. No.110/2021

This the 21st day of January, 2021

(Through Video Conferencing)

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

Sh. Bhoodev Prasad Rathore,
(Age 62 yrs), S/o Sh. Mawasi Ram,
R/o E-200, Krishan Vihar, Group B,
Near Shrangar Jewellers,
Delhi – 110086.

... Applicant

(through Mr. G. L. Verma, Advocate)

Versus

1. Delhi Development Authority,
Through its Vice Chairman,
Vikas Sadan, INA,
New Delhi – 110023.
2. The Commissioner (Personnel),
Delhi Development Authority,
Vikas Sadan, INA,
New Delhi – 110023.

... Respondents

(through Ms. Anupama Bansal, Advocate)

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

The applicant retired from the Service of Delhi Development Authority (DDA) on 31.07.2017. He became entitled to be extended the benefit of the 2nd ACP in the year, 2013. The Junior Level Screening Committee met on 14.02.2013. However on finding that a criminal case was pending against the applicant, it did not recommend the case of the applicant and on the other hand a sealed cover was maintained. In the year, 2017, the applicant made a representation stating that he was acquitted in the criminal case. Acting on the representation, the DDA passed an order dated 02.06.2017 extending the benefit of 2nd MACP, by mentioning the fact that a criminal appeal is pending and the release of the benefit is subject to the outcome of the same.

2. In the context of extending the benefit of 3rd MACP, to the applicant, the matter was examined. At that stage, it was noticed that even by January, 2017 another case was pending against the applicant. Taking note of the same, the DDA issued an order dated 19.06.2018, withdrawing the

benefit of 2nd ACP granted on 02.06.2017. This OA is filed challenging the order dated 19.06.2018.



3. Mr. G. L. Verma, learned counsel for the applicant submits that it was only on account of pendency of the criminal case that the 2nd ACP was deferred and, thereafter, it was sanctioned to the applicant on acquittal from the criminal case. He contends that no notice was issued to the applicant before passing the impugned order. Other contentions are also urged.

4. Ms. Anupama Bansal, learned counsel for the respondents submits that though the applicant was acquitted in the criminal case, which was pending in the year, 2013, it emerged that another criminal case was pending by the year 2017 and in that view of the matter the impugned order was issued.

5. The entitlement for 2nd ACP was considered way back in the year, 2013. Taking note of the fact that a criminal case registered by the Central Bureau of Investigation (CBI) is pending against the applicant, the sealed cover procedure was adopted. The applicant is stated to have been acquitted in the criminal case. He made a representation in this behalf in the year, 2017 acting on that the respondents i.e.

DDA passed an order dated 02.06.2017 releasing the 2nd ACP subject to the outcome of the criminal appeal pending against the applicant.



6. In the course of examining the case of the applicant for the 3rd MACP, it was noticed that another criminal case was still pending. The same situation obtained as on 02.06.2017. The respondents were of the view that the release of 2nd ACP was improper and impermissible in law.

7. The OA was listed earlier and we adjourned it to enable the learned counsel for the parties to obtain instruction as to whether any criminal case is still pending. It is submitted that one criminal case is still pending. In other words, in one criminal case, applicant was acquitted and an appeal is pending whereas another criminal case is still pending. Once this is the situation, the 2nd MACP ought not to have been released. Therefore, no exception can be taken in the order.

8. Therefore, we dismiss the OA. It is, however, made clear that in case the applicant is acquitted in the pending criminal case, he shall be extended all the benefits. Amount already paid, however, shall not be recovered, and the same

shall be subject to adjustment from the retiral benefits of the applicant, if he is convicted in any one case. There shall be no order as to costs.



(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

Pj/jyoti./ankit/sd