



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

O.A. No.1928/2016

This the 13th day of January, 2021

(Through Video Conferencing)

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

Sh. Sanjay Kumar Tyagi,
(aged about 51 years),
Designation –Sub Registrar,
S/o Late Sh. S. S. Tyagi,
R/o SG 67/9, Shastri Nagar,
Ghaziabad (UP).

... Applicant

(through Mr. Rohit Bhagat for Mr. Sourabh Chadda, Advocate)

Versus

Govt. of NCT of Delhi, through,

1. Lt. Governor of Delhi,
Raj Niwas,
New Delhi.
2. Govt. of NCT of Delhi,
Through Chief Secretary,
Delhi Sachivalaya,
IP Estate,
New Delhi.
3. Directorate of Vigilance,
Through its Director,
Delhi Sachivalaya,
IP Estate. New Delhi.

4. Directorate of Education,
Through its Director,
GNCTD, Old Secretariat,
Lucknow Road, New Delhi.

... Respondents



(through Ms. Esha Mazumdar, Advocate)

ORDER (Oral)

Justice L. Narasimha Reddy, Chairman:

The applicant was working as Sub Registrar in the Delhi Administration. Disciplinary proceedings were initiated against him by issuing a charge memorandum dated 11.11.2004. After prolonged enquiry, the Disciplinary Authority passed an order dated 28.01.2013, imposing the punishment of reduction of one stage, in the time scale of pay for a period of one year. Aggrieved by that, the applicant preferred an appeal to the Lt. Governor. The Appellate Authority i.e. the Lt. Governor, passed an order dated 26.02.2016, taking the view that holding of common enquiry by the Inquiry Officer against the applicant and another officer, in the absence of any specific order under Rule 18 of the CCS (CCA) Rules, 1965



(for short, 1965 Rules) vitiated the proceedings. He remitted the matter to the disciplinary authority for conducting *de novo* inquiry, from the stage of Rule 14(6) of the 1965 Rules. A notice was issued on 05.05.2016 appointing the enquiring authority to enquire into the charges levelled against the applicants. This OA is filed challenging the orders dated 26.02.2016 as well as the notice dated 05.05.20016.

2. The applicant contends that it was with a view to get the relief, he approached the Appellate Authority and though a specific deviation was pointed out, the LG has reopened the issue and ordered *de novo* inquiry, without even setting aside the order of punishment. It is stated that the disciplinary proceedings were initiated way back in the year 2004 and the *de novo* inquiry at this stage, would make his career uncertain for few more years. It is also stated that the order of punishment was implemented on 15.03.2013 itself and that he cannot be exposed to further un-certainty or hardship.



3. The respondents filed counter affidavit explaining the circumstances under which the impugned order was passed. It is stated that the appellate authority found strength in the point urged by the applicant regarding the violation of Rule 18, and accordingly, passed the impugned order. It is stated that no prejudice can be said to have been caused to the applicant, on account of the impugned order.

4. During the pendency of the OA, the applicant was retired on compulsory basis, vide order dated 31.10.2019 by invoking FR56 (J).

5. We heard Mr. Rohit Bhagat for Mr. Sourabh Chadda, learned counsel for the applicants, and Ms. Esha Mazumdar, learned counsel for the respondents.

6. The applicant was issued a charge memo in 2004. It is almost after a decade thereafter, that the punishment of reduction of one stage in the pay scale was imposed against him, through an order dated 28.01.2013. Expecting that some relief would be granted by the

Appellate Authority, he availed the remedy. One of the points urged by him was that joint inquiry was conducted by the IO, though no specific orders were passed in that behalf, under Rule 18 of the 1965 Rules.



7. It may be true that the Appellate Authority found strength in the point urged by the applicant and has chosen to remit the matter to the DA. However, the fact that the proceedings were pending for past one decade and the applicant would be subjected to the uncertainty for few more years was not taken into account. The relief granted to him in the form of the impugned order is worse than the one of dismissal of the appeal itself. The reason is that had the appeal been dismissed, no further prejudice would be caused to the applicant, since the order of punishment has already been implemented. Success in the appeal would have resulted in refund of the concerned amount. The direction for conducting *de novo* inquiry would certainly expose the applicant to uncertainty for several years to come, if the track of the earlier disciplinary proceedings is any indication. At any rate, the applicant has since been retired on compulsory basis.

8. We, therefore, allow the OA and set aside the impugned order. We make it clear that the order of punishment dated 28.01.2013 stood implemented and the applicant cannot have any grievance about it. The denovo enquiry shall lapse.

There shall be no order as to costs.



(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

lg/rk/ankit/sd