

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

**OA No-665/2020
MA No-1166/2020**

Jammu, this the 05th day of October, 2020

(Through Video Conferencing)



**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman
Hon'ble Sh. A.K. Bishnoi, Member (A)**

Pawan Kumar Gupta,
Aged 59 years,
S/o Late Om Parkash Gupta,
R/o H. No. 81/2A, Trikuta Nagar, Jammu

....Applicant

(through Sh. Pranav Kohli)

Versus

1. Union Territory of Jammu & Kashmir,
Through Principal Secretary to Government,
Public Works (R&B) Department,
Civil Secretariat, J&K, Srinagar,
2. Additional Secretary to Government,
Public Works (R&B) Department,
Civil Secretariat, J&K, Srinagar.
3. CE,
Public Works (R&B) Department, Jammu.
4. Director Finance, PW (R&B) Deptt., Jammu.
5. GirdhariLal, R/o Udhampur,
I/C Executive Engineer, JKPCC,
Under orders of posting as
I/C Executive Engineer,

R&B Division, Udhampur.

...Respondents

(through Sh. Amit Gupta)



ORDER (ORAL)

Hon'ble Sh. Justice L. Narasimha Reddy:-

The applicant is working as Executive Engineer in the PWD department of J&K administration. Up to 03.08.2020, he was working in Udhampur Division. Through an order of that date, he was attached to the office of Chief Engineer (CE) in J&K in the interest of administration. On the same day, the Government appointed the CE, PWD R&B Department, Jammu as an Inquiry Officer to inquire into certain allegations. It was mentioned that there were several deviations in the context of execution of work of bridge of Udhampur district and the applicant as well as the Superintending Engineer have delayed the initiation of proceedings against the erring officers. The CE was directed to inquire into the matter and submit a report within 21 days. A notice was issued on 21.08.2020. This OA is filed challenging the orders dated 03.08.2020 and notice dated 21.08.2020.



2. The OA was heard at some length and interim orders were reserved. Thereafter, the OA was posted before us for hearing. It was heard on 01.10.2020 at some length and was directed to be listed today. In the meanwhile, the applicant sought amendment of the OA to incorporate a challenge to the notice/charge memo dated 06.08.2020 issued by the CE.

3. The applicant contends that he is totally unconnected with the work of construction of the bridge and despite that inquiry is sought to be held against him. He contends that his attachment to the office of the CE was highly motivated and it would be a reflection upon his otherwise spotless career. He further contends that the appointment of the CE as an Inquiry Officer is not referable to any specific provision of law and in case, the inquiry is to be held, it is only the disciplinary authority, that could have initiated proceedings, in accordance with law.

4. The applicant further submits that the very Article of charge dated 06.08.2020 issued by the CE is contrary to law, in more respect than one. He contends that the explanation was required to be submitted within one day and it is not accompanied by any list of witnesses or documents. Other

contentions such as that the charge memo did not have the approval of the disciplinary authority, are also raised.

5. On behalf of the respondents a detailed reply is filed.



According to them, the J&K CCS (CCA) Rules, 1965 are made applicable to the employees of the Union Territory also, under the directions of the Hon'ble Lieutenant Governor. The respondents further contend that the proceedings initiated against the applicant are not the disciplinary proceedings by any stretch of imagination and the entire effort is only to ascertain certain facts and the roles played by various officials, in the issue concerned. They further contend that in case, it becomes necessary to initiate the disciplinary proceedings against the applicant, the prescribed procedure would certainly be followed.

6. We heard Sh. Pranav Kohli, learned counsel for the applicant and Sh. Amit Gupta, learned Additional Advocate General for the UT of Jammu.

7. The challenge in this OA is to the orders of attachment and the order of appointing the CE as the Inquiry Officer order dated 03.08.2020, and the charge memo issued by the CE dated 06.08.2020 and the notice dated 21.08.2020. So far as the order of attachment is concerned, it is issued



purely in the interest of administration and with a view to help the speedy conducting of the proposed inquiry. Beyond that, neither any stigma is attached to the applicant nor he is subjected to any hardship similar to the one of suspension pending. It is not even a posting to a distant place. Viewed from any angle we do not find any basis to interfere with the order of attachment dated 03.08.2020.

8. Coming to the order of same date through which the CE is appointed as Inquiry Officer, we would have certainly examined the matter in further detail, had it been a case where the disciplinary proceedings are initiated against the applicant and the order did not emanate from the disciplinary authority. In such an event, it would have become necessary for us to determine whether the disciplinary authority has initiated and approved the proceedings and whether the relevant provision of law is invoked. From a perusal of the order issued in that behalf, it is evident that the effort is to ascertain the lapse if any, on the part of the applicant in delaying the proceedings against certain persons who are said to have resorted to misappropriation of huge funds. The very fact that the CE was required to submit a report in 21 days discloses that the

exercise was not at all the one of initiation of disciplinary proceedings.



9. Having regard to the time frame fixed by the government, the CE has issued a “memorandum of charge” dated 06.08.2020. He required the applicant to submit his explanation within one day. It is difficult to imagine that a senior officer like the CE does not know the basic procedure to be followed in regular disciplinary proceedings. The task assigned to him was to conduct the enquiry on a very limited aspect viz., the acts and omissions on the part of the applicant in delaying in initiation of proceedings against the officers responsible for the illegalities. There is not even an allegation that the applicant has misappropriated any amount. To remove any doubt in this behalf, the respondents have also made it clear in the counter affidavit. We have also enquired from the learned counsel for the respondents whether the proceedings can be ascribed the status of the disciplinary enquiry. In all fairness, he said that they are not the regular disciplinary proceedings and at the most, a preliminary step.

10. It is true that the notice dated 06.08.2020 was not properly worded and a casual reading thereof gives an



impression that it is a memorandum of charge which commences the disciplinary proceedings against an employee. Maybe on account of the fact that very limited time was fixed for the entire exercise, proper attention was not paid to the appropriate drafting of the charges.

7. We, therefore, dispose of the OA:

(a) declining to interfere with the orders impugned in the OA and;

(b) taking on record the statement of the learned counsel for the respondents that the proceedings to be initiated against the applicant are not disciplinary in nature by themselves.

There shall be no order as to costs.

Pending MAs, if any, shall stand disposed of.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
(Chairman)

Ns/ankit/sd