

Item No.2



**Central Administrative Tribunal
Bangalore Bench, Bangalore**

O.A. No. 454/2017

Tuesday, this the 15th day of June, 2021

(Through Video Conferencing)

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

Sourav Kumar,
S/o Sri Rajendra Prasad,
Aged 55 years, working as
Principal Scientist Grade IV (4),
Central Food Technology and Research Institute,
Mysuru-570026,
Residing at No. 300, CFTRI Layout,
Bogadi, 2nd Stage, Mysore-570026.

... Applicant

(Mr. A. V. Bhat, Advocate)

Versus

1. Union of India,
By Secretary,
Ministry of Science and Technology,
Technology Bhavan,
New Mehrauli Road, New Delhi – 110016.
2. The Director General,
Council of Scientific and Industrial Research,
Anusandhan Bhavan,
2, Rafi Ahmed Kidwai Marg, New Delhi – 110001.
3. The Director,
Central Food Technology and Research Institute
(CFTRI),
Mysuru-570026.
4. Prof. Ashwini Kumar Nangia,
(Ad hoc Disciplinary Authority),
Director, CSIR-National Chemical Laboratory,
Dr. Homi Bhabha Road, Pune-411008.

... Respondents

(By Advocate : Mr. K. Ananda)



O R D E R (ORAL)

Mr. Justice L. Narasimha Reddy:

The applicant is working as Principal Scientist Gr-IV (4) in the Council of Scientific and Industrial Research – 2nd respondent herein. He was issued a charge memo dated 20.01.2014 with only one Article of charge. It was alleged that when the applicant was working as Scientist, he indented for Eight Roller Mill Type RMO 1000 CS for the department but after receipt the equipment, was not installed properly. It is alleged that the applicant issued a false certificate to the effect that the unit was installed and is working satisfactorily.

2. The applicant filed this OA, challenging the charge memo. According to him the charge leveled against him is without any basis and that there is inordinate delay in issuing the charge memo. He elaborated the facts relating to the purchase and installation of the unit and the circumstances under which, he issued the certificate.

3. The respondents filed a detailed reply. It is stated that the applicant issued a certificate to the effect that the equipment was installed, but the fact that the equipment was not installed came to light only when a complaint was submitted by one of the Scientists, to the CBI, and that the matter was investigated. It is further stated that the

Item No.2



explanation of the applicant was sought in the year 2011 and after verifying the relevant facts, the charge memo was issued.

4. The matter was heard earlier by the Bangalore Bench. There was a difference of opinion between the Two Members and it was heard by a Third Member. The matter was taken to Hon'ble High Court. Vide its judgement dated 08.02.2021, the Hon'ble High Court has set aside all the three orders and remitted the matter back to the Tribunal. It was left open to the Chairman to take further steps in accordance with the law. Having regard to fact that the matter was heard earlier by a Division Bench of Bangalore Bench, the Chairman opined that the O.A. be decided afresh, by another Division Bench. Accordingly the OA was listed.

5. Today we heard Mr.A.V.Bhat, learned counsel for the applicant and Mr.K.Ananda, learned counsel for the respondents.

6. The challenge in this OA is to a charge memo dated 20.01.2014. The only Article of Charge reads as under :

That the said Sourav Kumar while working as Scientist since 12.06.1989, indented for Eight Roller Mill Type RMO 1000 CS for the department and on receipt of the equipment, has not taken adequate initiative for installation of the equipment, but he has given a false certificate to the effect that the unit is installed and working satisfactorily.

Item No.2



Thus Shri Sourav Kumar, Principal Scientist having failed to take adequate steps to install the Eight Roller Mill Type RMO 1000 CS, and having submitted false certificate has committed the misconduct of "failure to maintain absolute devotion to duty", "failure to maintain absolute integrity" and acted in a manner of unbecoming of Council Servant" in terms of Rule 3 (1)(i), 3(1)(ii) and 3(1)(iii) of CCS (Conduct) Rules, 1964 respectively, as made applicable to the Council Employees.

7. The allegation against the applicant is that without installing the equipment acquired by the organization, he issued a certificate not only to the effect that the equipment was installed, but also stated that it is working satisfactorily.

8. In an organization like CSIR, the administration believes in the honesty and efficiency of the Scientists. Hardly there would be any scope for suspecting their bonafidies. The fact that the equipment indented by the applicant was not installed, came to light only when one of the Scientists by name Mr.Umesh filed a complaint before the CBI. The matter was investigated and it was noticed that the equipment was not installed at all. Even at that stage the remarks of the applicant were obtained in the year 2011. It was only after eliminating some doubt, that the 2nd respondent issued a charge memo to the applicant. The truth or otherwise of the charge, needs to be examined only in the departmental

Item No.2



enquiry. The Tribunal cannot function as an enquiring authority. The law is fairly well settled in this behalf. It is only when the charge memo is issued by an authority, not vested with the power or where, no misconduct can be made out, even if the charge is taken as true, that this Tribunal can interfere.

9. Though an argument is advanced to the effect that the charge memo was issued by an authority not competent to do so, we find that it is not raised in the OA. Secondly the learned counsel for the respondents submits on retirement of Disciplinary Authority of the applicant, the incharge officer issued it, no illegality has crept in.

10. It is true that a first look at the charge memo may indicate that there was inordinate delay in issuing it. The fact however remains that the truth came to light only when a complaint was submitted to the CBI. In the matters of this nature, where allegations of dishonesty, if not fraud, are made delay hardly matters. The interests of the organization are of paramount consideration. In case the applicant is able to establish that the equipment was installed and the certificate issued by them is true, he would certainly come out clean and no harm would be caused. If on the other hand the charge is proved, necessary action needs to be taken.

Item No.2



11. We do not find any merit in this OA and the same is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

June 15, 2021

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