



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

O.A. No. 96/2021

This the 12th Day of July, 2021

(Through Video Conferencing)

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

Lalit Kumar Gupta
S/o Late Sh. Suresh Chand Gupta
(Last Employed as Upper Division Clerk,
Senior Secretariat Assistant,
With North Municipal Corporation of Delhi)
Flat No. 32 A, Gate No. 3,
Rampura, Delhi – 110035.
Email-gلالit0607@gmail.com

... Applicant

(By Advocate : Shri Shashank S. Mangal)

Versus

North Delhi Municipal Corporation,
Through Addl. Commissioner (Estt.)
Disciplinary Authority,
Vigilance Department,
26th Floor, Dr. S.P.M. Civic Centre,
Minto Road, New Delhi – 110002.
Tel-011-011-011-23227615
E-mail-cvo-ndmc@mcd.nic.in,
clo-ndmc@mcd.gov.in

... Respondent

(By Advocate : Shri R.V. Sinha with Shri Amit Sinha)



O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman :

The applicant is working as Upper Division Clerk (UDC) in the North Delhi Municipal Corporation. An FIR was registered against him on 03.09.2012 alleging offence punishable under Section 7/13 of the Prevention of Corruption Act, 1988. He was also placed under suspension but was reinstated on 10.03.2014. The criminal court acquitted the applicant vide its judgment dated 15.12.2018. Thereafter, the Disciplinary Authority (DA) issued a charge memo dated 28.10.2020 to the applicant proposing to conduct disciplinary inquiry. It was alleged that the applicant received illegal gratification of Rs. 50,000/- from one Mr. Mirja Tahir for not sealing his shop; and that the applicant was arrested by the Anti Corruption Branch, Government of NCT of Delhi. This OA is filed challenging the said charge memo.

2. The applicant contends that the allegation against him in the charge memo is the same, as the one in the criminal case and once he is acquitted, there is absolutely no basis for the respondents to initiate disciplinary proceedings. Another contention is that the applicant is a physically disabled person and no punishment can be imposed against him.

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3. The respondents filed a detailed counter affidavit. It is stated that though the applicant was acquitted in the criminal case, the parameters that are applicable for determination of disciplinary proceedings are different and mere acquittal in the criminal case cannot preclude them from initiating the disciplinary proceedings. It is stated that various grounds urged by the applicant can be put forward in the course of the disciplinary proceedings and charge memo cannot be quashed. The plea taken on the ground that the applicant is a physically handicapped candidate is also denied.

4. Today we heard Sh. Shashank S. Mangal, learned counsel for the applicant and Sh. R.V. Sinha, learned counsel for the respondents.

5. It is true that the applicant was acquitted in the criminal case, vide judgment dated 15.12.2018. However, the right of the department to initiate disciplinary proceedings cannot be doubted at all. It is fairly well settled that the principle of appreciating of evidence or other aspects are totally different, for the criminal case on the one hand, and disciplinary proceedings on the other hand.



6. The charge framed against the applicant reads as under:-

“Statement of Charge framed against Shri Lalit Kumar Gupta S/o Shri Suresh Chand Gupta, The then UDC/LI, General Branch, C.L. Zone, North DMC (Now posted as SSA/Divn. EE (Elect.), Civil Line Zone.

Shri Lalit Kumar Gupta, UDC while functioning as Licensing Inspector in General Branch, C.L. Zone, North DMC during the year 2012 failed to maintain absolute integrity, devotion to duty and committed gross misconduct which is unbecoming of a municipal employee in as much as on 22.8.2012 during the course of employment, he along with Shri Tara Dutt Joshi, UDC/Licensing Inspector demanded Rs. 50,000/- from the complainant Shri Mirja Tahir S/o Shri Mirja Shabid Baig, Shop No. 30, Himtan Road, Kashmere Gate, Delhi for not sealing his shop as a result of which he was arrested by the A.C. Branch, Govt. of NCT of Delhi in case FIR No. 14/12 dated 3.9.2012 U/S 7/13 POC Act. He maliciously abused his official position as a Licensing Inspector in General Branch, C.L. Zone, and by indulging in aforesaid illegal act tarnished the image of North DMC.

He, thereby, contravened the provisions of Rule 3 of CCS (Conduct) Rules, 1964 as made applicable to the employees of North DMC.”

7. The truth or otherwise of the allegations contained in the charge need to be examined in the disciplinary proceedings. The applicant can certainly rely upon and take advantage of the judgment rendered by the criminal court. This is not a case in which the charge memo was issued by an authority not vested with the power or where no act of indiscipline or misconduct can be perceived, even if the contents of the charge are taken as true.

8. The plea of the applicant that no punishment can be imposed upon him even if the charge is proved is difficult to be accepted. The protection given to persons with disabilities is

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only against indiscriminate reduction in rank. There is no provision in the Persons with Disabilities Act, exempting the persons from being proceeded against in the disciplinary proceedings.

9. We do not find any merit in the OA and accordingly the same is dismissed. However, the disciplinary proceedings shall be completed within a period of six months from the date of receipt of copy of this order.

There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/rk/ns/sunita/akshaya/