

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

O.A. No.322/2020

This the 8th day of July, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Shri Navlendra Kumar Singh, Age 42 years,
S/o Shri Maheshwar Singh, Group 'A'
R/o 34-B, Pocket-B, Grade 1st Class
Mayur Vihar, Phase-II, Delhi - Applicant

(By Advocate: Mr. Roopansh Purohit)

Versus

1. Union of India
through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi-110001
2. Govt. of National Capital Territory of Delhi,
(Through its Chief Secretary)
Delhi Secretariat, Delhi
3. Govt. of National Capital Territory of Delhi,
[Through its Chief Secretary (Vig.)]
Delhi Secretariat, Delhi
4th Level, C-Wing, Delhi Secretariat,
IP Estate, New Delhi - Respondents

(By Advocates: Mr. Hanu Bhaskar, Mr. Amit Anand and Mr. Rajender Singh Rana)





ORDER (Oral)

Justice L. Narasimha Reddy:

The applicant is a Selection Grade DANICS Officer. He worked as Additional District Magistrate/Land Acquisition Collector (LAC), Distt.: North, Govt. NCT of Delhi, in the year 2016. Disciplinary proceedings were initiated against him by issuing a charge memo dated 10.03.2017. It was alleged that in his capacity as LAC, he passed an order dated 03.06.2016 on a representation of one Mr. Vimal Jain, without any lawful authority and jurisdiction and with malafide intention. Another allegation was that he abused his official position by taking up the proceedings hastily, even while he was under order of transfer; and that his acts and omission adversely affected the Government in respect of a valuable piece of land.

2. The applicant submitted his explanation to the charge memo. Not satisfied with the explanation, the Disciplinary Authority (DA) appointed the Inquiry Officer (IO). After conducting the inquiry, IO submitted a report dated 28.12.2018, holding that Article I of Charge is not proved and that Article II of Charge is proved. The DA, disagreed with the finding of the IO on Article I, and issued a disagreement note dated 28.03.2019. The applicant submitted a representation on 18.04.2019 to that. The DA considered the representation of the applicant and forwarded the entire material to the Hon'ble President of India. Stating that the Hon'ble President of



India decided to reject the representation of the applicant, the DA passed an order on 31.12.2019, imposing the punishment of reduction from the present time scale of post, to the lower time scale of post, for a period of three years, which shall be a bar to his promotion during that period, to the post from which he is reduced with further direction that on the expiry of the said period, the future increments of his pay shall stand postponed and that he shall not regain his original seniority in the higher time scale of post on restoration to his original post. The appeal preferred by the applicant was rejected the Appellate Authority (AA). This OA is filed with a prayer to quash the order of the punishment dated 31.12.2019, the order of the AA and for consequential reliefs.

3. The applicant contends that he discharged his duties as LCA and did not do anything illegal. He contends that the notification issued by the Government, proposing to acquire the land in question was quashed by the Hon'ble High Court in the year 2002 itself, and the compensation, which was wrongfully paid to the land owner, was taken back when offered by the concerned person. He submits that the correspondence was undertaken with the concerned Secretary as well as the User Department, and legal opinion was also obtained, before taking the action. It is pleaded that in OA No. 1986/2016 filed by one K.C. Surender, the legality of the action taken by him, i.e. applicant herein, was dealt with and the Tribunal took the view that once the acquisition was set aside, there is no option, but to return



the land subject to refund of the compensation, if paid to the owner of land, and thereby the order passed by him was indirectly approved.

4. The applicant further contends that the disciplinary proceedings initiated against Sh. K.C. Surender, who actually received the compensation, albeit on the orders passed by him, were set aside, and the same result must ensue in this case also. The applicant denied the allegation that he advanced the proceedings even after receiving the order of transfer.

5. The respondents filed a detailed counter affidavit, opposing the OA. They contend that being the LCA, the applicant was not competent to pass order to take refund of compensation paid in respect of the land under the Land Acquisition Act (for short, the Act). It is stated that after the Hon'ble High Court has set aside the notification issued earlier, in respect of the acquired land, the Government has issued a fresh notification, and that the applicant created a delicate situation for the Government, by directing the acceptance of refund of compensation, even while such proceedings are pending.

6. The respondents contend that by 29.05.2016, the applicant was transferred to a different position and despite that, he preponed the proceedings from 10.06.2016 to 01.06.2016 and passed order dated 02.06.2016, much after he received the order of transfer. They submit that the IO has also held Article II of the Charge as proved and



the gross indiscipline and misconduct on the part of the applicant was clinchly established.

7. Shri Roopansh Purohit, learned counsel for the applicant submits that it is a matter of record that the notification in respect of the land in question was set aside by the Hon'ble High Court, and it is long thereafter, that an application was filed, offering to refund the compensation. He submits that though a request was made for mutation of entries in the record, and for other steps also, the applicant did not grant them at all and he passed an order, only for taking refund of compensation, that too, after obtaining the legal opinion. He argued that the applicant passed an order on 03.06.2016, maybe after receiving the order of transfer, on account of the reason that the parties agreed for it and the matter also reached finality. He contends that there was no basis for imposing such a serious punishment on the applicant, who did nothing more than discharging his duties bestowed upon him under law. According to him, the punishment imposed against the applicant is totally disproportionate and would severely affect the career of the applicant.

8. Shri Amit Anand, learned counsel for the respondents, on the other hand, submits that applicant is not conferred with the power under the Act, to accept the refund of the compensation, particularly when there was no order by the Hon'ble High Court to that effect. He contends that the person, who offered to the refund of compensation,



was not the original owner and without even verifying the title, and ignoring the fact that a fresh notification has already been issued by the Government on 04.03.2003 for acquiring that very land, the applicant passed the order dated 03.06.2016 contrary to law.

9. Learned counsel further submits that the applicant was transferred to another place vide order dated 29.05.2016 and despite that, he advanced the proceedings from 10.06.2016 to 01.06.2016 and passed an order on 03.06.2016. He contends that it is an established norm that an officer under transfer shall not pass any orders, and that the applicant has ignored all such norms and committed a gross illegality and impropriety. He submits that the punishment imposed against the applicant is commensurate with the charge held proved against him.

10. The order impugned in the OA is sequel to the memorandum of charge issued to the applicant. The Articles of Charge read as under:-

“ARTICLE-I”

That Shri Navlendra Kumar Singh, Selection Grade Officer of DANICS, while working as Addl. District Magistrate/Land Acquisition Collector, District North, Govt. of NCT of Delhi during the year 2016, committed gross misconduct in as much as he abused his official position by passing an illegal order dated 3rd June, 2016 on the representation of Shri Vimal Jain, R/o Loni Road, without any lawful authority and jurisdiction, with mala fide intention and ulterior motive to favour a private person, adversely affecting the Government interest in respect of a valuable piece of land.



ARTICLE-II

That Shri Navlendra Kumar Singh, Selection Grade Officer of DANICS, while functioning in the aforesaid post during the aforesaid period, committed gross misconduct in as much as he abused his official position by conducting the proceedings hastily, without following the due procedure, in deciding the aforesaid case, with malafide intention and ulterior motive to favour a private person, adversely affecting the Government interest in respect of a valuable piece of land.

By the above acts of omission & commission, Shri Navlendra Kumar Singh, Selection Grade Officer of DANICS exhibited lack of absolute integrity and devotion to duty, which is unbecoming of a Govt. servant, thereby violating the provisions of Rule 3 of CCS (Conduct) Rules, 1964.”

11. In the statement of imputation, the allegations against the applicant are elaborated. While Article I is about the very competence and legality as regards the order dated 03.06.2016, the charge under Article II is about the preponement of the proceedings, after the applicant was transferred, and passing of the impugned order.

12. The Government of Delhi issued a notification dated 15.09.2000 under Section 4(1) of the Act, proposing to acquire various items of land, including those comprised Khasra Nos. 426, 435, 401, 576, 577, 587m,, 589, admeasuring 27 bigha and 16 biswas situated at village Bhalaswa, Jhangirpur, Delhi, for the public purpose. The said land belonged to Mr. Khush Ram. The notification, together with the declaration published under Section 6 of the Act, were challenged by Mr. Khsushi Ram in the High Court by filing Writ Petition No. 6461/2000. That Writ Petition and two other Writ



Petitions were allowed by the Hon'ble High Court vide judgment dated 12.12.2002, and the notification issued under the Act was set aside.

13. During the pendency of the proceedings before the Hon'ble High Court, the LAC passed an award on 12.04.2002 and paid compensation of Rs.1,19,52,394.75 to Mr. Khushi Ram. It is pertinent to note that there was no direction by the Hon'ble High Court for taking the refund of compensation. It also appears that the name of the Government was recorded, in the revenue records in respect of the said land, obviously because once the land owner is paid the compensation under the award, the land vests in the Government, by operation of law.

14. One Mr. Vimal Jain, filed a representation on 24.09.2015 before the LAC, i.e. applicant herein, with a request to take refund of the compensation amount and to remove the name of the Government from the record. He wanted his name to be entered in the revenue record as owner of the said land. Mr. Vimal Jain stated that Khushi Ram executed agreement to sell, power of attorney, Will and a receipt and delivered possession of the land on 10.05.2004, that Khushi Ram died on 18.10.2009, and thereby, he became absolute owner of the land. It was stated that once the notification issued under the Act was set aside, the ownership reverts to Khushi Ram,



and thereafter to him, and accordingly, he offered to refund the compensation.

15. Here itself, we make it clear that we are not making any pronouncement upon the legality or otherwise of the title claimed by Mr. Vimal Jain. In fact, the Tribunal has no jurisdiction to do so. What, however, appears to be a bit strange is that Mr. Jain had obtained a copy of the Will from Mr. Khushi Ram together with the so-called agreement to sell and power of attorney and pressed them into service after the death of Khushi Ram. Whatever may have been his approach to the entire issue, the applicant was supposed to simply forward the same to the authority in the Government and to ask Mr. Jain to pursue the remedies there. However, he proceeded as though Mr. Jain became the absolute owner and that he, i.e. the applicant herein, is competent to take the refund of the compensation. No provision of law is cited. The record discloses that the notification was set aside by the Hon'ble High Court on technical grounds, and the Government issued a fresh notification on 04.03.2003 for acquisition of that very land.

16. The Administration is faced with a precarious situation. On the one hand, it has issued the fresh notification dated 04.03.2003 under Act for the acquisition of that very land, by pleading, *inter alia*, that on payment of compensation, the land stood vested with it. On the



other hand, it is its own officers, i.e., the applicant herein ordered the acceptance of refund of the compensation.

17. The I.O. no doubt, held Article I, as not proved. The fact, however, remains that the DA issued a disagreement note and forwarded the representation of the applicant, to the President. On its being rejected, he held the Article, as proved.

18. It is not in dispute that soon after the Hon'ble High Court has set side the notification under the Act vide judgment dated 12.12.2002, the Government issued a fresh notification on 04.03.2003 itself, under Section 4(1) of the Act. The notification included all the land of Khushi Ram, except the one in Khasra No. 435. That the applicant was aware of these proceedings, is evident from the order passed by him on 03.06.2016 itself. The relevant paras of the said order dated 03.06.2016 reads as under:-

“7. Upon perusal of the advice received from Dy. Legal Advisor/L&B and the extracts from L.R. Register placed on record, it was noted that there is reference to a notification dated 04.03.2003 under Section 4 of the Land Acquisition Act. A report was therefore called for from the Naib Tehsildar/LA to verify whether the land in question was part of any set of subsequent notification and whether Section 6 declaration has been issued for said khasra Nos. and whether any award has been passed in respect of the same.

8. The Naib Tehsildar/LA has reported that as per the notifications dated 04.03.2003, Khasra Nos., 426(0-10), 436(4-16), 401(4-16), 576(3-16), 577(2-08) and 589(4-16) are included in the said notification except Khasra No 435. There is also no entry in respect of Khasra No. 587(6-14) in subsequent Sec.4 notification. As per notification dated 04.12.2004 issued under Section 6 of the LA Act,



these khasra numbers were not notified under Section 6 of the LA Act. Consequently, no award has been passed in respect of the said khasra numbers.”

Any person in place of the applicant would have desisted from taking any action whatever, once (a) the compensation for the land was already paid; and (b) a fresh notification was issued. Added to these two, another is that the claimant, i.e. Mr. Vimal Jain before him was not the original owner or his legal representative. He is the one, who rested his claim on the so-called Will, agreement to sell, GPA etc. Even if there did not exist any proceedings under the Act, the applicant was expected to verify whether the ‘Will’ was probated and whether the sale deed was executed in pursuance of the agreement to sell. It is only then, that a recognizable title would have existed. For the reasons best known to him, the applicant ordered that refund of compensation offered by such a person, can be accepted.

19. It is true that in the order dated 26.09.2018 passed in OA No. 1986/2016 filed by one Shri K.C. Surender, this Court referred to the order dated 03.06.2016 passed by the applicant herein. That was in the context of his subordinate making payment in compliance with the directions contained in order 03.06.2016. It was observed that the order dated 03.06.2016 was passed and it was in pursuance of the same, that the applicant in OA No 1986/2018 paid the compensation. It is important to note that when the OA was heard, it was not brought to our notice that a fresh notification was issued by the



Government on 04.03.2007, soon after the Hon'ble High Court quashed the notification on 12.12.2002. The relevant portion reads as under:-

“8. Secondly, it is not as if the order dated 02.06.2016 was passed in contravention of any provision of law. Neither in the charges nor in the imputation it is mentioned that any provisions of law has been contravened. On the other hand, there was a serious irregularity on the part of the administration itself, in not returning the land even a decade after the High Court has set aside the notification issued on 15.09.2000 under the Land Acquisition Act. In case, the Government intended to proceed with the acquisition, two courses were open to them. The first was to carry the judgment of the Hon'ble Delhi High Court to further appeal or Letter Patents Appeal or to file Special Leave Petition before the Hon'ble Supreme Court depending on the stages. The second option was to issue a fresh notification proposing to acquire that very land. Neither of these steps were taken and the judgment of the Hon'ble High Court dated 12.12.2002 in the Writ Petition No.6461/2000 became final more than a decade ago.”

All that was only passing reference, in a different context. The Tribunal did take precaution in this behalf in Para 13, which reads as under:-

“13. The O.A. is accordingly allowed. However, we make it clear that the findings recorded by us in this OA are exclusively for the purpose of this case and they would not have any bearing on the proceedings, if any, instituted in relation to the issue against other officers. There shall be no order as to costs.”

Therefore, the applicant cannot contend that any final view was expressed on his order, particularly when neither he was party to the proceeding nor the order dated 03.06.2016 was subject matter of adjudication, therein.



20. Another aspect is about the timing of the order dated 03.06.2016. The representation of Mr. Vimal Jain was received on 24.09.2015. The noting on 04.05.2016 reads:

“None present. Issue fresh notice to both the parties for 11.05.2016”.

The endorsement dated 11.05.2016 reads:

“LAC is on leave. Present: Sh. R.C. Meena & sh. Suresh Kumar (Tehsildar and Patwari), Shri B.N. Sharma, J.E. (DUSIB), Shri Rajender Bansal, AE (DUSIB) (Land). Present: Sh. Vimal Jain, applicant in person along with Sh. Kailash Jain. Adjourned for 24.05.2016 at 3 PM”.

21. What happened on 24.05.2016 is somewhat curious. The proceedings read:

“Sh. Sandeep Srivastava, Advocate for Shri Vimal Jain in person, Shri R.C. Meena Tehsildar, Shri Umed Singh, Manung & Sh. BM Sharma, JE, (DUSIB). Heard both the parties. A written submission be submitted on or before the NDOH, i.e. 10.06.2016 at 3 PM. Meanwhile, land status with photographs be called from Halka Patwari.”

22. The applicant and all the parties signed thereon. However, another paragraph under that reads:

“At this stage, advocate for the applicant requests for change of date of hearing. Accordingly, the date is changed as 01.06.2016 instead of 10.06.2016. Parties have noted down the change date. Put up on 01.06.2016 at 3 PM.”

It is important to note that excepting the signature of the applicant, those of other participants and officials do not find place here. The endorsement made on 01.06.2016 reads:



“The Halka Patwari has placed on record 2 No. of status report alongwith photographs and copy of Jamabandi which is taken on record. Present Shri Sanddep Srivastava advocate along with Sh. Vimal Jain, applicant. None is present on behalf of DUSIB”.

It needs to be mentioned that various officers of DUSIB were present in the earlier dates of hearing. The applicant closed the proceedings and passed the order dated 03.06.2016 which runs into 25 pages.

23. In the context of adjudication of disputes by Judicial or quasi-judicial fora, more than the content or the conclusion, the method in arriving it becomes significant. An order or judgment, which is sound on facts and perfect in law, may tend to become untenable, if the method of conducting the proceedings was in deviation from the prescribed procedure or norms. Conversely, an otherwise incorrect adjudication, may not be interfered in appeal or revision, if it reflects adherence to a fair procedure, norms, and does not give any scope to doubt the neutrality or honesty of the adjudicator. We are of the view that the manner in which the applicant conducted the proceedings did give an impression that all was not well. We do not find any illegality in the conclusions arrived at, by the DA.

24. It is true that the punishment imposed against the applicant is very serious. Apart from depriving him of the substantial part of his pay, it would also deny him the benefit of promotion. The punishment would also impact on his future career. If the applicant is so advised, he can make a representation to the respondents for



revisiting the punishment. One factor can be that in case the Government did not part with the possession of the land on account of the order passed by the applicant, the punishment imposed against the applicant can be reduced. These matters, however, need to be verified by the respondents and to be placed by the applicant before them.

26. We, therefore, dispose of the OA, declining to interfere with the findings on the Articles of Charge, but directing that it shall be open to the applicant to make a representation to the respondents for reduction of the punishment imposed against him by placing the relevant facts. Orders on such representation shall be passed within two months from the date of presentation. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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