



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

OA No. 1267/2020

This the 29th day of June, 2021

(Through Video Conferencing)

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

R. V. Singh,
S/o Shri Diwan Singh,
The then Assistant General Manager (AGM),
Bharat Sanchar Nigam Limited (BSNL),
Office of General Manager, BSNL, Agra,
Uttar Pradesh, Age – 54,
R/o e-595, Kamla Nagar,
Agra-282005, Uttar Pradesh.

... Applicant

(By Advocate : Mr. Harsh Gautam)

Versus

1. Chairman-cum-Managing Director (CMD),
Bharat Sanchar Nigam Limited (BSNL),
Govt. of India Enterprises,
H.C. Mathur Lane,
Janpath, New Delhi – 110001.
2. Director (Human Resources),
Bharat Sanchar Nigam Limited (BSNL),
Govt. of India Enterprises,
H.C. Mathur Lane,
Janpath, New Delhi – 110001.
3. Company Secretary and Chief General Manager (Legal),
Bharat Sanchar Nigam Limited (BSNL),
Govt. of India Enterprises,
H.C. Mathur Lane,
Janpath, New Delhi – 110001.

... Respondents

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



O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman :

The applicant was working as Assistant General Manager in the year 2014. He was issued a charge memo dated 17.10.2014, alleging that he signed certain documents in his capacity as Head of the Tender Drafting Committee, contrary to the CVC guidelines and other stipulated norms. The applicant submitted his explanation to the same. Not satisfied with that, the Disciplinary Authority (DA) appointed the Inquiry Officer (IO). The applicant has also retired from service on attaining the age of superannuation on 31.10.2014.

2. The Inquiry Officer submitted his report on 17.12.2016, holding that the charges framed against the applicant are not proved. The DA, however, proposed to disagree with the findings of the I.O and issued a disagreement note dated 20.01.2017, requiring the applicant to explain as to why the articles of charge, be not taken as proved. The applicant submitted his explanation on 27.02.2017. Taking the same into account, the Disciplinary Authority passed an order dated 26.02.2018 holding that the charges framed against the applicant as proved, and imposing a penalty of 5% cut in pension for a period of one year. The appeal filed by him was rejected. The applicant filed this OA challenging the order



dated 26.02.2018 and the order passed by the Appellate Authority.

3. The applicant contends that the I.O recorded a clear finding that none of the articles contained in the charge memo are proved and despite that, the D.A has chosen to issue a disagreement note. He contends that the points on which the DA proposed to disagree with the findings were clearly explained by him in his explanation and despite that the impugned order was passed. It is also stated that the tender document was finalized by the higher authorities and there was no basis for the respondents to find fault with the applicant.

4. The respondents filed a detailed counter affidavit. It is stated that the applicant has taken certain steps in finalization of the tender documents, which caused serious loss and hardship to the BSNL. It is stated that though the I.O submitted his report holding the charges as not proved, the DA furnished cogent reasons as to how the charges can be taken as proved. The respondents further contend that the applicant was provided with adequate opportunity at every stage and the DA passed the impugned order in an objective and fair manner. The appeal preferred by the applicant was rejected by the Board of Directors. They further contend that



the Appellate Authority examined the matter in detail, and rejected the claim of the applicant.

5. We heard Shri Harsh Gautam, learned counsel for the applicant and Shri R.V. Sinha, learned counsel for the respondents.

6. The applicant was issued a charge memo, few days before his retirement. The articles of charge reads as under :-

“2. Article of Charges:-

That Sh. R. V. Singh, while posted and functioning as DE(Rural) 0/o GMTD Agra during the period October 2013 to March 2014 has committed serious irregularities of great magnitudes and grave misconduct by misusing his official powers;

2.1 Article-I:-

During aforesaid period while working in aforesaid capacity, Sh. R. V. Singh was appointed member of the committee to draft the tender document with terms and conditions for AMC & Operation of EA Sets. He being Chairman of the committee has recommended ambiguous condition in the draft bid document on which NIT was floated and finally work was awarded.

The drafting committee has recommended the condition that bidder must have turnover of 150% of estimated cost of the tender during each of the previous three years viz 2010- 11,2011-12 & 2012-13 which became part of bid document at page 3 para 8, in violation of CVC guidelines issued vide no. 12-02-1-CTE-6 dated 17-12-2002. It was also in violation of para 2.5.4 of the book "Manual of procurement of telecom equipment and store". Thus



Sh. R.V. Singh as Chairman of the committee has acted in prejudice manner with malafide intention.

Thus by his above acts, Sh. R. V. Singh failed to maintain absolute integrity, exhibited lack of devotion to duty and acted in a manner unbecoming of a government servant, thereby, contravened the provisions of Rule 4 (1)(a),(b) and (c) of BSNL CDA Rules-2006.

2.2 Article-II :-

During aforesaid period while working in aforesaid capacity, Shri R. V. Singh was appointed member of the committee to draft the tender document with terms & conditions for AMC & Operation of EA Sets. He being Chairman of the committee has recommended ambiguous condition in the draft bid document on which NIT was floated and finally work was awarded.

The drafting committee has recommended the condition that bidder must have to provide list of qualified persons for the maintenance of engine alternators but have failed to elaborate the qualifications of such persons in the form of educational qualifications and/or length of experience of such works which became part of bid document at page 3para 7. Thus putting an ambiguous condition in the tender. Thus Sh. R. V. Singh as Chairman of the committee has acted in prejudice manner with malafide intention.

Thus by his above acts, Sh. R. V. Singh failed to maintain absolute integrity, exhibited lack of devotion to duty and acted in a manner unbecoming of a government servant, thereby, contravened the provisions of Rule 4 (1)(a),(b) and (c) of BSNL CDA Rules-2006.



2.3 Article-III

During aforesaid period while working in aforesaid capacity, Sh. R. V. Singh was appointed member of the committee to draft the tender document with terms & conditions for AMC & Operation of EA Sets. He being Chairman of the committee has recommended ambiguous condition in the draft bid document on which NIT was floated and finally work was awarded.

The drafting committee has recommended the condition that tender may be extended for another one year on satisfactory performance of the bidder on same terms and conditions on mutual consent. Also provision of extension of quantum of work by 25% of agreement cost was kept in the bid document which became part of bid document at page 10 para 7.1 to 7.4. In this way a provision for extension by 250% to 300% of its estimated cost was kept in violation of the instructions of BSNL letter no. 409-1/2000-TPS(C) dated 03.06.2002. Thus Sh. R. V. Singh as member of the committee has acted in prejudice manner with malafide intention.

Thus by his above acts, Sh. R. V. Singh failed to maintain absolute integrity, exhibited lack of devotion to duty and acted in a manner unbecoming of a government servant, thereby, contravened the provisions of Rule 4 (1)(a),(b) and (c) of BSNL CDA Rules-2006.”

7. The allegation against the applicant is that being a Head of Tender Drafting Committee, he has deviated from the norms stipulated by the CVC and other Agencies. The gravamen appears to be that the turnover of the proposed tender was stipulated 150% of the value of the work, whereas according to



the CVC it must not be more than 30%. The objective of the CVC seems to be to encourage more and more participants and thereby, the competition. The stipulation of high turnover will block the entry of many intending contractors.

8. It is true that the IO held that none of the charges framed against the applicant are proved. The fact however remains that the DA has proposed to disagree with the findings and accordingly issued the disagreement note. The applicant was provided with adequate opportunity in that behalf and ultimately the impugned order was passed.

9. In his discussion in the impugned order, the DA has indicated the reasons as to why, and how, the charges can be treated as proved. We have already mentioned that one of the aspects was about the stipulation of the turnover. The higher turnover stipulated, contrary to the guidelines of CVC has resulted the denial of opportunity for many contractors to participate. At any rate, these are the technical issues which cannot be addressed by the Tribunal. It is only when any serious lapse has taken place, that the Tribunal can review such decision. Further the punishment is least possible one, and no serious prejudice can be said to have been caused to the applicant, compared to the nature of allegations made against him.



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

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

rk/mbt/ankit/sd