

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

O.A. No.1734/2020 & M.A.No.2238/2020

This the 28th day of June, 2021

(Through Video Conferencing)

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

Shri Krishan Kumar Dhiraan, S/o late Hari Ram,
R/o SD-351, Pitampura, Rt. E.E. Age 58 Group 'A',
Delhi. ... Applicant

(By Advocate: Mr. Rajeev Sharma)

Versus

The Commissioner, North Delhi Municipal Corporation,
Dr. S.P. Mukherjee Civic Centre, 4th Floor,
J.L. Marg, New Delhi. ... Respondent

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

ORDER (Oral)

Justice L. Narasimha Reddy:

This OA reflects the *raison d'être*, behind the FR 56 (j) and Rule 48 of CCS (Pension) Rules, which may otherwise appear to be some what draconian.

2. It is not uncommon that as and how irregularities or misconduct are noticed against the employees, in various departments, disciplinary proceedings are initiated and they are taken to the logical conclusion. They may result in imposition of major or minor penalties or some times, in exoneration of charges. However, if the department has to spend its substantial time to address the irregularities and misconduct, which the employee resorts to frequently, apart from not being of any use to the public, the employee tends to be a source of worry, if not nuisance to the department itself. Obviously, to meet such situations, the provision referred to above, was enacted. The case, on hand, discloses as to how the said provision would serve public purpose.

3. The applicant was appointed as Junior Engineer in 1985, in the Delhi Municipal Corporation. On trifurcation of the Corporation, he came to be allotted to North Municipal Delhi Corporation (NMDC). He was promoted as Assistant Engineer on ad hoc basis in 2005, and on regular basis in 2007. He was entrusted with the look after duties of the post of Executive Engineer on 18.12.2008, and that was converted to an ad hoc promotion on 27.07.2016. The applicant has rendered 34 years of service.

4. The NDMC, passed an order dated 31.10.2019, retiring him by invoking FR 56 (j) Rule 48 (1) (b) of CCS (Pension) Rules. The review filed by him was rejected on 17.12.2020.

5. The applicant filed this OA challenging the order of premature retirement, as confirmed in the review. He contends that though disciplinary proceedings were initiated against him on several occasions, most of them ended in dropping of charges and in certain cases, punishments of not high magnitude, were imposed. He contends that once the respondents have promoted him to the post of Assistant Engineer and thereafter Executive Engineer, albeit on ad hoc basis; there was no basis to look into his past history and then to retire him, much in advance.

6. The respondents filed a reply. They stated that disciplinary proceedings were initiated against the applicant on as many as 37 times and that itself is sufficient ground to weed away persons of such background. The respondents contend that the record of the applicant is so disturbing, that the provision ought to have been invoked a bit earlier.

7. Today, we heard Mr.Rajeev Sharma, learned counsel for the Applicant and Mr.R.V.Sinha, learned counsel for the Respondents.

8. The applicant feels aggrieved by the order of premature retirement passed against him. It is no doubt true that he was 58 years of age by the time the impugned order was passed. That, however, does not make much difference. In matters of this nature, the Tribunal has to examine whether

there exists any material at all warranting the invocation of FR 56 (j). If the material as such exists, the further inquiry as to the adequacy need not be undertaken.

9. The Hon'ble Supreme Court repeatedly held that an order of premature retirement does not constitute punishment, and the Courts should be loathe to interfere with the orders of this category, unless extraordinary situations exist. It would be sufficient to make reference to the judgment of the Hon'ble Supreme Court in **BAIKUNTHA NATH DAS AND ANR. v. CHIEF DISTT. MEDICAL OFFICER, BARIPADA AND ANR. (1992 AIR 1020, 1992 SCR (1) 836/ 1992 SCALE (1)428)**.

10. Reverting to the facts of the case, one would be shocked to note that as many as 37 disciplinary proceedings were initiated against the applicant. The particulars are furnished in the pages 7 to 10 of counter affidavit. Though it would have been advisable to extract them, it becomes necessary to refer to them, so that one would have a clear picture about the performance of the applicant. They read as under:

"S.No.	RDA No.	Penalty
(i)	1/292/1987	Censure O.O dt. 17.09.1992
(ii)	1/307/1987	Censure office order dated 08.07.1991
(iii)	1/765/1987	Stoppage of two increments without future effect vide office order dated 02.11.1992.
(iv)	1/827/1987	Censure vide Office Order dated 17.09.1992
(v)	1/99/1988	With holding of five increments with future effect Office Order dated 05.03.1992
(iv)	1/186/1988	Stoppage of 8 increments with future effect Office Order dated 09.07.1992
(vii)	1/194/1988	Stoppage of two increments with future effect vide Office Order dated 20.09.1995.
(viii)	1/219/1988	Censure Office Order dated 24.10.1990
(ix)	1/304/1988	Censure Office Order date 17.11.1992
(x)	1/376/1988	Reduction in time scale by two stages for two years Office Order dated 10.09.1996.
(xi)	1/423/1988	Censure Office Order dated 12.10.1990.
(xii)	1/76/1989	Reduction in his own pay scale by four stages for a period of four years with future effect and he will not earn any increments of this period vide Office Order No. 76/89/DE/DD/II/390 dated 29.12.1994.

(xiii)	1/236/1989	Exonerate date 02.08.1995.
(xiv)	1/206/1990	Stoppage of two increments without future effect dated 17.02.1995.
(xv)	1/305/1990	Reduction of lower stage in the time scale of JE by one increments for a period of six month and during the currency of punishment , he will draw his normal increments and also that after the punishment period is over, this reduction will not have any effect of postponing his future increments thereafter vide Office Order No. 271 dated 06.04.1999.
(xvi)	1/503/1992	Stoppage two increment without future effect dated 11.02.1995
(xvii)	1/117/1993	Stoppage of two increment without future effect vide dated 12.07.1995.
(xviii)	1/246/1993	Stoppage of two increment without future effect vide dated 08.09.1995.
(xix)	1/251/1993	Stoppage of 1 increment without future effect vide dated 14.11.1996
(xx)	1/286/1993	Exonerate dated 01.02.1999.
(xxi)	1/378/1993	Exonerate dated 18.12.1998
(xxii)	1/392/1993	Stoppage of 1 increment without future effect vide dated 11.13.1999. (please check)
(xxiii)	1/9/1994	Censure vide Office Order No. 113 dated 26.02.1999.
(xxiv)	2/133/1994	Stoppage of 1 increment without future effect vide Office Order dated 12.07.1995.
(xxv)	1/274/1994	Warning to be careful in future Office Order dated 01.07.1998.
(xxvi)	1/327/1994	Exonerated dated 21.12.1998.
(xxvii)	2/80/1995	Exonerate dated 09.05.1998.
(xxviii)	1/153/1995	Stoppage of one increment without future effect vide Office Order dated 06.01.1999.
(xxix)	1/157/1995	Stoppage of one increment without future effect vide Office Order No. 409 dated 09.05.1996.
(xxx)	1/20/2000	Reduction in the time scale of pay by one stage or one year with Cumulative effect vide Office Order No. 1701 dated 26.09.2003.
(xxxi)	1/21/2000	Exonerated dated 03.01.2001.
(xxxii)	1/119/2001	Censure vide Office Order dated 19.09.2002.
(xxxiii)	1/233/2003	Censure vide Office Order No. 2/233/2003/vig./P/UD/2004/1078 dated 29.06.2004.
(xxxiv)	1/87/2007	Dropped vide Office Order No. 1/87/2007/P/DA-III/07/3114 dated 20.09.2007.
(xxxv)	1/39/2009	Exonerated vide Office Order No. 1/39/2009/vig./P/2013/332 dated 30.09.2013.
(xxxvi)	1/11/2018	PENDING RDA CASE C/S not issued. RDA for minor penalty was initiated, but before issuance of statement of imputation, one of the Cos namely Sh. Bhagwan Singh, EE, represented to Commissioner who vide order dated 19.09.18 administered Recordable Warning upon Sh. Bhagwan Singh, EE. The matter was referred to CVC for 1 st stage advice CVC vide OM dated 19.12.18 has advised NDMC to resubmit the case after recording statement of all the five COs involved in this case. Matter is under process in the investigation Unit."

11. It is indeed a wonder, that the Corporation has the reputation having such officers at its rolls. A separate Section may have been needed to monitor the proceedings initiated against the applicant. This OA would provide a Text Book case for invoking the provision like FR 56 (j). The

applicant was visited with punishments over the past three decades. It appears that the applicant and his employer are so accustomed to them that they could not feel comfortable without such proceedings with regular periodicity. The impugned order is nothing but an act of consolidation of the various acts of indiscipline and then to show him the door even while permitting his retirement benefits. In fact, the applicant must be thankful and happy for such a honourable farewell.

12. We do not find any merit in the OA and the same is accordingly dismissed. The M.A. No.2238/2020 stands disposed of. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

Dsn