

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK  
OA No. 82/2012**

Dated : 23<sup>rd</sup> July, 2014

**C O R A M**

Hon'ble Mr. R.C.Misra, Member [Administrative]

Hon'ble Mr. S.K.Pattnaik, Member [Judicial]

Dr. S.B.Ray, aged about 57 years, son of Shri Sashibhusan Ray, a permanent resident of Village Bagalagarh, Post-Bagalo-baharana, Dist. Cuttack at present working as Director [Geology], PSS [TC&TCS] Division and Project, Environmental Geology, State Unit – Odisha, Unit VIII, Nayapalli, Bhubaneswar, PIN-751 012.

Applicant.

By Advocate : Shri B.N.Mohanty.

vs.

1. Union of India represented through its Secretary to Government of India, Ministry of Mines, A wing, Third Floor, Sashtri Bhawan, New Delhi-110 001.
2. The Director General [Acting], Government of India, Ministry of Mines, Geological Survey of India, 27, J.L.Nehru Road, Kolkata-700 016.
3. The Deputy Director General & HOD, Government of India, Ministry of Mines, Geological Survey of India, Eastern Region, Bhu-bijan Bhawan, DK 6 Sector-2, Karunamoyee, Salt Lake City, Kolkata, PIN 700 091.
4. The Dy. Director General, Government of India, Ministry of Mines, Geological Survey of India, State Unit Odisha, Unit VIII, Nayapalli, Bhubaneshwar, PIN-12.

Respondents.

By Advocate : Shri U.B.Mohapatra, SCGSC

**O R D E R**

**S.K.Pattnaik, Member [Judicial]** :- The applicant has filed this OA for quashing of the charge-sheet dated 21.09.2010 [Annexure-A/6] and final order of punishment awarded by Disciplinary Authority vide order dated 12.01.2012 [Annexure-A/17].

2. Applicant's case in short, runs as follows :

The applicant while working as Senior Geologist during the period 2006-07, was assigned the duty of Preliminary appraisal of SMS/CP/LD grade limestone occurrences in Gangpur Group of Rocks in parts of Sundergarh District of Orissa. It was a team work to be prepared by co-authors. The appraisal report was required to be submitted by the applicant after consultation by 31<sup>st</sup> March, 2008. However, vide letter dated 17.11.2009 [Annexure-A/2], the Office of Deputy

*S.K. Pattnaik*

Director General, Geological Survey of India, Operations, Orissa insisted for submitting pending progress report and final report up to FS 2005-06 by 31.12.2009 and other pending reports to be cleared by March, 2010. Shri R.R.Raul, Sr. Geologist who was the co-author, submitted his report on 29.03.2010, which was submitted to Direcotr [MC&P] on the same day by the applicant after consolidation of all data and figures. On receipt of the report, the Director issued further direction to combine the progress report of 2005-06 and 2006-07 vide his letter dated 29.03.2010 [Annexure-A/3]. The applicant further pleaded that vide letter dated 30.03.2010, interim report for F.S. 2006-07 was circulated and final report for F.S. 2005-07 was submitted vide letter dated 31.03.2010 [Annexure-A/4 and A/5 respectively]. According to the applicant, the report of the applicant of F.S. 2006-07 was submitted well within time granted by the competent authority vide letter dated 17.11.2009 [Annexure-A/2], as such there was no question of delay or belated submission report after 31.03.2010. In the meantime, the applicant was promoted to the post of Director, vide letter dated 06.07.2007 [Annexure-A/1]. While the matter stood thus, the applicant received a memorandum dated 21.09.2010 issued by the Director General [Acting], Geological Survey of India, under Rule 16 of CCS [CC&A] Rules, 1965. The main thrust of imputation was, submission of progress report belatedly, forgetting the ground reality that the competent authority had granted time till the end of March, 2010. However, the applicant submitted his reply to the charges denying any laches or inaction on his part. Even then, the Disciplinary Authority proceeded with the charge. Mr. R.G.Vijay, Dy. Director General [Chemistry] was appointed as Enquiry Officer. When the applicant pointed out before the Enquiry Officer that he had not received any Article of Charge along with charge memo, the Enquiry Officer directed the Presenting Officer for providing specific Article of Charges to the delinquent employee at the earliest. Thereafter, Article of Charge was supplied on 09.02.2011 [Annexure-A/12]. The Enquiry Officer held the

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enquiry on 01.04.2011 and closed it on the same day and submitted his report on 10.05.2011 [Annexure-A/15] holding that there was no foolproof evidence establishing lack of devotion to duty by the delinquent employee Dr. S.B. Ray. The copy of enquiry report was supplied to the applicant inviting his objection and the applicant submitted his reply on 07.07.2011 [Annexure-A/16]. However, Respondent No.1 issued the order dated 12.01.2012 imposing punishment of reduction to lower stage in the time scale of pay by one stage for a period not exceeding three years without cumulative effect. The applicant challenges said finding of the Disciplinary Authority and specifically contended that when there was no negligence in duty and as the report was to be submitted after collecting the same from another employee and moreover, when it was submitted within the stipulated time frame, no dereliction in duty can be attributed to the applicant and that too, to the tune of imposing financial punishment, impairing his long standing unblemished service career.

3. Respondents contested the case by filing a counter. According to the respondents, the applicant belonging to the cadre of Director [Geology] GSI, was charge-sheeted for misconduct due to non-submission of progress report for the period 2006-07 within the stipulated date i.e. 31.03.2008. Further case of the respondents is that the Director General, GSI after consideration of the enquiry report and materials observed that the charged officer cannot be free from the lapses of late submission of report and imposed a minor penalty. According to the respondents, the applicant being an author of the report, he had the responsibility to coordinate with co-authors to ensure that circulation of report is made in time and it was his duty to be in touch with the co-author and coordinate with him from time to time, so that the submission of report is made in time. Further case of the respondents is that since the applicant was appointed in GSI for scientific work, it was his main duty to give utmost priority to submit his scientific report and any delay in submission of the report becomes out-dated and affects the policy

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process. Further case of the respondents is that the applicant should have submitted his report by 31<sup>st</sup> March, 2008 but the final FSP report for the year 2006-07 has been submitted only on 31.03.2010 and for this delay the report could only be circulated on 04.06.2010. According to the respondents, the late submission report clearly indicates that it was pending with him from 31.03.2008 to 31.03.2010 and as there was no infirmity in the disciplinary proceeding, no interference is called for, as high amount of devotion is required from the higher grade officers like the applicant.

4. Before delving into merit of this case, it may be worth-while to examine the representation submitted by the applicant on 01.10.2010 [Annexure-A/7] on the charge-memo and reply dated 07.07.2011 [Annexure-A/16] to the enquiry report where he had candidly explained his stand vis-a-vis responsibility of his co-author Mr. R.R.Raul, Sr. Geologist. Since the facts are on record and not disputed, the same may be analyzed chronologically for better appreciation as to whether there was really any dereliction in duty or not.

5. The undisputed facts which have not been refuted by the Department is that the charged officer [applicant] was promoted as Director [Geology] on 06.07.2007 and his co-author Mr. R.R.Raul, Senior Geologist was transferred to NER, Shillong in January, 2008 and he had carried all the relevant materials with him [revealed in the daily order-sheet of the disciplinary proceeding dated 14.01.2011, Annexure-A/10]. The applicant has categorically mentioned in his representation dated 07.07.2011 that he had 57 days of field work against 121 days of Mr. R.R.Raul, Sr. Geologist and as per letter dated 27.04.2006 of Central Region, the officer having maximum number of active field days has to write the final report. According to the applicant, in fact the report writing work was initiated by Mr. Raul in December, 2007 and as he was transferred to Shillong and carried all the relevant data with him and as Shri Raul handed over the chemical data to the applicant in the last week of January, 2010 for analysis and on receipt

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of the chemical data, immediately he analyzed and interpreted the result, classified the limestone samples into different grades, plotted the data on the maps, demarcated the limestone/dolomite bands and after completing the preliminary appraisal, prepared the tracings and kept the report ready and awaited for Sri Raul's part to be received for final submission of the report and as soon as Mr. Raul sent the write up to him by e-mail on 29.03.2010, the applicant submitted the progress report on the very day i.e. 29.03.2010, i.e. much before the dead-line dated 31.03.2010. The explanation submitted by the applicant seems to be logical and believable. There is nothing on record produced by the respondents to dispel such assertions.

6. No where the respondents say that the applicant had more number of field work than Mr. Raul, for which he was required to prepare the initial data, or that in spite of submission of data by Mr. Raul in time, it was delayed in the table of applicant. The respondents do not whisper a single word when chemical data from the laboratory was made available to applicant, in order to pin him for dereliction in duty. The whole exercise was initiated under a misconception without realizing the ground reality and background, forgetting that both the officers were transferred and relieved before ensuring submission of final report. Not a single reminder was produced by the Department that time to time both the officers were impressed to expedite the report or were called for explanation for such laches before initiating a disciplinary proceeding.

7. Coming to the punishment order passed by the Disciplinary Authority dated 12.01.2012, we find incurable defect and lack of application of mind. The Disciplinary Authority has passed the impugned order as if the applicant held guilty by the enquiry officer. There is absolutely no note of disagreement and no reference where the Enquiry Officer had gone wrong. The Enquiry Officer on the basis of documentary and oral evidence had concluded as follows [Enquiry Report, Annexure-A/15] :

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*"After conducting the inquiry and on th basis of the documentary and oral evidences and oral arguments between the Charged Officer and the Presenting Officer, the following facts emerged -*

*[1] Dr. S.B.Ray, Director, while functioning as Sr. Geologist was associated along with his co-author Shri R.R.Raul with the item for FS 2006-07.*

*[2] The report was pending till 08.03.2010. The said report [FS 2006-07] was finally submitted on 29<sup>th</sup> March, 2010 and as per the directive of Director M&C, the report of FS 2005-06 was combined with 2006-07 report and the final report for FS 2005-07 was submitted to the office on 31.03.2010. The final report was circulated on 04.06.2010.*

*The explanation given by the Charged Officer that the report submission was delayed due to his promotion to Director, transfer of his co-author to GSI, NER and for want of chemical analysis data.*

*In view of the observations and facts mentioned above and on the basis of the documentary evidences and arguments, the undersigned is of the opinion that Dr., S.B. Ray, Director can not be held fully responsible/accountable for the delay in submission of th report. His co-author and other officers at Op-Orissa are equally responsible.*

*However, I feel that there are no foolproof evidences establishing that Dr. S.B. Ray, Director has shown lack of devotion to duties i.e. the charges framed are not clearly established."*

8. The whole misconception started because while initiating the disciplinary proceeding on 21.09.2010 [Annexure-A/6], the respondents were under impression that the progress report should have been submitted by 31.03.2008 forgetting the ground reality that on 17.11.2009, the Deputy Director, Geological, Survey of India [Annexure-A/2] had extended time limit for final submission of report in respect of FS 2005-06 by 31.12.2009 and other pending reports by March, 2010. Since the present charge head relates to FS 2006-07, naturally the deadline for submission of report was 31.03.2010 which the applicant had complied on 29.03.2010 i.e. prior to the deadline. There is considerable force in the submission of the learned counsel for the applicant that the very memorandum of charge of not submitting the report by 31.03.2008 was misconceived as it was extended subsequently. Since the original deadline was 31.03.2008, certainly the

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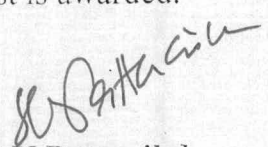



respondents were within their right, had they initiated disciplinary proceeding soon after 31.03.2008 which they did not do. Once they extended the deadline to 31.03.2010 under Annexure-A/2 on 17.11.2009, they could not have issued a memorandum of charge-sheet on 21.09.2010 for such laches as there was in fact no laches. Apart from the technicalities, since the report of the applicant was dependent on submission of progress report by the co-author, Mr. Raul, proceeding against Mr. Ray [present applicant] smells malafide when the other persons have been left out from joint responsibility. Had it been the case that in spite of report from Mr. Raul, the applicant delayed at his table, the matter could have been appreciated at different perspective. Since the applicant on the very date of receipt of report from Mr. Raul, i.e. 29.03.2010 submitted the same, we feel no hesitation in concluding that it was expeditiously dealt and within the time frame. Taking all these aspects into consideration, the Enquiry Officer in his wisdom has categorically observed that the submission of delayed report was due to promotion of the applicant as Director and transfer of his co-author out-side Orissa. The Enquiry Officer categorically observed that the present applicant cannot be held fully responsible and accountable for the delay in submission of the progress report as his co-author and other officers were equally responsible. The Enquiry Officer did not find any foolproof evidence or lack of devotion to duty and as already indicated the impugned order does not indicate how the enquiry report was without any basis or against weight of evidence. For the sake of argument, it may be reflected at the end that if there was any delay on the part of delinquent employee in submitting report in time, what the higher authorities were doing all these years from 2008 to 2010. There is not a single scrap of paper where explanation has been called for from the defaulting officer, or a warning for their negligence. Since submission of report was dependent on scientific examination of the report and as there was considerable delay in submission of chemical data, naturally there was delay in submission of progress report. The authorities have not

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whispered a single word why there was delay in availability of analytical report from the chemical laboratory and rather it was born out from the report that Mr. Raul personally contacted several times and got data from the chemical laboratory. So in such backdrop, the applicant cannot be fastened with dereliction in duty as it was wholly dependent on other consequential colateral factors. Further more, since the report was submitted before the deadline, the applicant cannot be fastened with dereliction in duty. Since the memorandum of charge so also the order of Disciplinary Authority were based on wrong notion and erroneous appraisal of ground reality, the same are liable to be quashed in the larger interest of justice.

9. In the result, the OA is allowed, The charge-sheet dated 21.09.2010 and the punishment order dated 12.01.2012 [Annexure-A/6 and Annexure-A/17] are hereby quashed and the order of punishment is set aside. In the peculiar circumstances, no cost is awarded.

  
[ S.K.Pattnaik ]  
Member [Judicial]  
mps.

  
[ R.C.Misra ]  
Member [Administrative]