

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

**RA-247/2015
MA-3175/2015 in
OA-2936/2011**

New Delhi this the 17th day of November, 2015.

Hon'ble Mr. Shekhar Agarwal, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)

Sh. Phool Kanwar,
S/o late Sh. Manu Ram,
Ex-Driver B.No. 12280,
P.T.No. 36958, BBMD,
Village Ram Nagar,
P.O. Sanpeda,
Distt. Sonapat (HR).

..... Review Applicant

(through Sh. Ram Sewak, Advocate)

Versus

The CMD of
Delhi Transport Corporation,
I.P. Estate,
New Delhi-110 002.

..... Respondent

(through Sh. Ataur Rehman for Sh. Sarfaraz Khan, Advocate)

ORDER (ORAL)

Mr. Shekhar Agarwal, Member (A)

MA-3175/2015

The review applicant has filed this application for condonation of delay in filing RA-247/2015. For the reasons stated therein, the same is allowed.

2. This Review Application has been filed by OA applicant for review of Tribunal's order dated 22.05.2015. The operative part of the said order reads as follows:-

"15. In view of the above, we are of the view that the penalty finally imposed on the applicant was not adequate. We are unable to ignore the aforesaid aspects of the matter and specially that the charges had been held proved. In this circumstance, the impugned order of

punishment dated 13.07.2010 is not fit to be legally sustained and is accordingly quashed to the extent of the quantum of punishment imposed by the Disciplinary Authority on the applicant. We direct the Disciplinary Authority to consider afresh, the aspect regarding quantum of punishment and while doing so, to ensure that the punishment is commensurate with the charges held as proved against the applicant. The adequacy of punishment shall accordingly be determined by the Disciplinary Authority, who shall pass a fresh order within a period of six weeks from the date of receipt of a copy of this order.

16. It is clarified that since the applicant has already been provided opportunity by the Disciplinary Authority to show cause against the proposed punishment of removal from service vide notice dated 20.08.2009 to which the applicant has given his reply vide letter dated 31.08.2009 (Annexure-A/18), no fresh opportunity is required to be provided by the Disciplinary Authority to the applicant while passing the fresh order.

17. OA is disposed of with aforementioned directions. There shall be no order as to costs. "

3. We have heard the parties. Learned counsel for the review applicant argued that this Tribunal has committed an error apparent on the face of the record inasmuch as it has been observed in the order that the enquiry officer has found the applicant to be guilty of the charges. Learned counsel further argued that it was not the enquiry officer but the disciplinary authority, who was competent to decide on the guilt of the applicant. However, we find that Rule-23(i) of the CCS(CCA) Rules reads as under:-

"(23)(i) After the conclusion of the inquiry, a report shall be prepared and it shall contain-

(a) the articles of charge and the statement of the imputations of misconduct or misbehaviour;

(b) the defence of the Government servant in respect of each article of charge;

(c) an assessment of the evidence in respect of each articles of charge;

(d) the findings on each article of charge and reasons therefor."

Thus, this ground of the Review Applicant has to be out rightly rejected. After conducting the enquiry and collecting the evidence, it is the duty of the enquiry officer to analyse the same and come to a finding whether the charge against the errant officer stands proved or not. In Para-14 of this Tribunal's order, it has been observed that the enquiry officer conducted the enquiry proceedings and found the applicant guilty of the charges levelled in the charge sheet. In our opinion, there is no infirmity in the same as it is in accordance with the duties caste upon the enquiry officer. In any case, this observation has no bearing on the final outcome of the OA and hence cannot constitute a ground for review of the Tribunal's order.

4. Learned counsel for the review applicant also pleaded that although this Tribunal has quashed the impugned punishment order, yet it did not pass any orders for granting consequential benefits to the applicant. On going through the aforesaid order, we find that this Tribunal had held that the punishment imposed on the applicant was not commensurate with the charges proved against him and had, therefore, directed the disciplinary authority to pass a fresh order within six weeks from the date of receipt of a copy of the Tribunal's order. Since the Tribunal had not reversed finding of the enquiry officer as well as the disciplinary authority that the applicant deserved to be punished, the question of allowing any consequential benefits does not arise. Hence, this ground of the review applicant also deserves to be rejected.

5. No other ground was pressed by the counsel for review applicant. We, therefore, find no merit in this review application and the same is dismissed.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

/Vinita/

