

**Central Administrative Tribunal  
Principal Bench  
New Delhi**

OA No.370/2015

Order Reserved on: 04.03.2016

Pronounced on:02.05.2016.

**Hon'ble Mr. Justice M.S. Sullar, Member (J)**  
**Hon'ble Mr. K.N. Shrivastava, Member (A)**

Vivekanand Sharma, SREO/Adhoc DANICS,  
S/o late Chander Mohan Sharma,  
R/o A-72, Captain Gaur Mark,  
East of Kailash,  
New Delhi-65.

-Applicant

(By Advocate Shri P.C. Mishra)

**-Versus-**

1. Lt. Governor through  
Chief Secretary,  
Govt. of NCT Delhi,  
5ht Level, Delhi Secretarial, I.P. Estate,  
New Delhi-110 002.
2. Director Employment,  
Govt. of NCT of Delhi,  
Employment Exchange Building,  
IARI Complex, Pusa,  
New Delhi.
3. Secretary, Director of Vigilance,  
Govt. of NCT of Delhi,  
4<sup>th</sup> Level, Delhi Secretariat,  
I.P. Estate, New Delhi-2.
4. Commissioner (Transport),  
Department of Transport,  
Govt of NCT of Delhi,  
5/9, Under Hill Road,  
Delhi-110 054.

-Respondents

(By Advocates Shri Vijay Pandita (1-3) and Shri N.K. Singh for Mrs. Avnish Ahlawat (4))

### **ORDER**

**Mr. K.N. Shrivastava, Member (A):**

This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985. The specific reliefs prayed for in the OA read as under:

“i) quash the departmental proceeding initiated vide charge memo No.F.5/DOV/Tpt./4/9/2013/DOV/1325 dated 19.12.2014 with consequential benefits.

ii) issue permanent injunction against the departmental proceeding pertaining to the proceedings.

(iii) or any other order or directions as deemed fit and proper in the facts and circumstances of the case may be passed.”

2. The brief facts of this case are as under.

2.1 The applicant joined the Government service on 06.09.1988 and during the year 1995-1996 he worked as Grade-II DASS/Head Clerk in the Tilak Marg Zonal office of Transport department of Government of National Capital Territory Delhi (GNCTD). He was later promoted as Superintendent and finally in the year 2007 was absorbed in DANICS on ad hoc basis. While the applicant was working as Sub Regional Employment Officer,

Annexure A-2 Show Cause Notice (SCN) dated 17.08.2012 was issued to him in which it has been alleged that the applicant while working as Grade-II DASS in the Transport department had issued NOC for transfer of ownership of a vehicle without examining the relevant documents. The applicant replied to the said SCN vide Annexure A-4 letter dated 15.04.2013. Not satisfied with the reply of the applicant to the SCN, the DA decided to issue Annexure A-1 charge-memo in which the following articles of charge was made:

“Article-I

That the said Sh. Vivekanand Sharma, adhoc DANICS, while functioning as Gr. II (DASS)/Head Clerk in Tilak Marg (New Delhi) Zonal Office of the Transport Department, Govt. of NCT of Delhi, during the year 1995 and 1996, committed serious gross misconduct in as much as he processed the case for the termination of hypothecation and transfer of ownership of vehicle No.DL-2C-C-2622 on 01/06/1995, without the proper documentation and valid signatures of the registered owner and transferor, in violation of the provisions of Rule 50 and 51 of the Central Motor Vehicle Rules, 1989.

By the above acts of omission & commission, the aforesaid Sh. Vivekanand Sharma, adhoc DANICS exhibited lack of integrity and devotion to duty, which is unbecoming of a Govt. servant, thereby violating the provisions of Rule 3 of CCS (Conduct) Rules, 1964.

Article-II

That the said Sh. Vivekanand Sharma, adhoc DANICS, while functioning in the aforesaid post during the aforesaid period, committed gross

misconduct in as much as he processed the case for grant of 'No Objection Certificate' on 05.02.1997 for the transfer of the said vehicle No.DL-2C-C-2622 from Delhi to Sitamarhi, Bihar, without obtaining the insurance certificate, in violation of the provisions of Rule 55 and 58 of the Central Motor Vehicle Rules, 1989.

By the above acts of omission & commission, the aforesaid Sh. Vivekanand Sharma, adhoc DANICS exhibited lack of integrity and devotion to duty, which is unbecoming of a Govt. servant, thereby violating the provisions of Rule 3 of CCS (Conduct) Rules, 1964."

2.2 Aggrieved by the action of the Disciplinary Authority (DA) for issuing the impugned charge-memo, the applicant has filed the instant OA.

3. Pursuant to the notices the respondents entered appearance and filed their reply. The applicant filed his rejoinder thereafter. With the completion of the pleadings the case was taken up for hearing the arguments of the parties on 04.03.2016. Shri P.C. Mishra, learned counsel for the applicant and Shri Vijay Pandita, learned counsel for respondents 1-3 and Shri N.K. Singh, for Mrs. Avnish Ahlawat, learned counsel for respondent no.4 argued the case.

4. The learned counsel for the applicant stated that although the applicant had worked in the Zonal office of the Transport department during the relevant period, i.e.,

1995-1996 but had not dealt with the concerned NOC case file and that the applicant left the Transport department on 04.06.1996. He also submitted that the charge-sheet has been issued to him for an action that had taken place almost 18 years ago. He, therefore, pleaded that the OA may be allowed and the impugned charge-sheet may be quashed and set aside.

5. Per contra, Shri Vijay Pandita, learned counsel for respondents 1-3 submitted that the Transport department have confirmed that the case file relating to issuance of NOC for transfer of the ownership of the vehicle was indeed handled by the applicant only. In support of his argument, the learned counsel presented a copy of letter of Transport department (Vigilance Branch) of GNCTD No.F.3(5)/Vig./Tpt./2000/370 dated 03.03.2016 (taken on record) and has stated that the transfer of ownership of the vehicle in question was carried out by the applicant only. The learned counsel also drew our attention to a judgment of the Hon'ble Supreme Court in the case of **Union of India v. Upendra Singh**, [(1994) 3 SCC 357], in which it has been held as under:

“At this stage, the tribunal has no jurisdiction to go into the correctness or truth of the charges. The tribunal cannot take over the functions of the disciplinary authority. The truth or otherwise of the

charges is a matter for the disciplinary authority to go into. Indeed, even after the conclusion of the disciplinary proceedings, if the matter comes to court or tribunal, they have no jurisdiction to look into the truth of the charges or into the correctness of the findings recorded by the disciplinary authority or the appellate authority as the case may be. The function of the court/tribunal is one of judicial review, the parameters of which are repeatedly laid down by this Court.”

6. Concluding his arguments, the learned counsel stated that no intervention from this Hon’ble Tribunal is required at this juncture and that the disciplinary proceedings may be allowed to be taken to the logical end.

7. We have considered the arguments put-forth by the learned counsel for the parties and have perused the record and pleadings annexed thereto. It is quite clear from the record that the applicant was the concerned Grade-II/DASS Head Clerk who processed the file pertaining to the issue of NOC of the concerned vehicle. We also feel that the applicant has approached this Tribunal pre-maturely as DA has not yet passed the final order.

8. In the conspectus, we dismiss the OA with liberty to the applicant to approach this Tribunal at the appropriate time and after exhausting all the departmental remedies.

9. No order as to costs.

**(K.N. Shrivastava)**  
**Member (A)**

**(Justice M.S. Sullar)**  
**Member (J)**

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