

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

O.A.No.498/2017

Thursday, this the 2nd day of November 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Mr. R K Nim
Aged about 64 years
s/o late Jiwa Ram
r/o B 1355/2, Sangam Vihar
New Delhi
(Retired as Director, Western Printing Group (WPG)
Survey of India, New Delhi)

(Mr. S K Gupta, Advocate)

..Applicant

Versus

Union of India through

1. Secretary
Department of Science & Technology
Ministry of Science & Technology
Govt. of India, Technology Bhawan
New Mehrauli Road, New Delhi – 110 016

2. Inquiry Officer
(Maj. Gen. B D Sharma)
Addl. Surveyor General (Now Retired)
c/o Secretary
Department of Science & Technology
Ministry of Science & Technology
Govt. of India, Technology Bhawan
New Mehrauli Road, New Delhi – 110 016

..Respondents

(Mr. Y P Singh, Advocate)

O R D E R (ORAL)

Justice Permod Kohli:

Through the medium of this O.A., the validity of the charge-sheet dated 05.03.2012 (Annexure A-1), the inquiry report dated 01.02.2013 (Annexure A-2) and final penalty order dated 15.06.2016 (Annexure A-3)

have been called in question on the grounds indicated in the O.A. During the course of the arguments, Mr. S K Gupta, learned counsel for applicant has, however, laid emphasis on the ground that the charge-sheet has not been approved by the competent authority.

2. The respondents were accordingly directed to file the reply as also to produce the records. Reply has not been filed. However, the original records of disciplinary authority have been produced, which we have carefully perused. The Note for initiating disciplinary proceedings after obtaining the first stage advice of Central Vigilance Commission (CVC) was initiated by the Section Officer (Vig.) on 02.01.2012. It is this Note, which has been examined by the Under Secretary (Vig.) and later by the Secretary, Department of Science & Technology (DST) and finally approved by the disciplinary authority (Hon'ble Minister) on 15.02.2012. The said Note is reproduced hereinbelow:

“5. To initiate any disciplinary proceedings against Shri R.K. Nim, Director, a Senior Group ‘A’ Officer, approval of the President is required to be obtained. Accordingly, the case may kindly be submitted to the Hon'ble Minister (S&T and ES), for his approval on behalf of the President on the following:

- (i) acceptance of the first stage advice of CVC dated 23.11.2011 for initiation of major penalty proceedings against Shri R.K. Nim, Director, Western Printing Group, Survey of India, New Delhi.
- (ii) initiation of disciplinary proceedings by issuing charge-sheet for major penalty proceedings against Shri R.K. Nim, Western Printing Group, Survey of India, New Delhi under Rule 14 of CCS (CCA) Rules, 1965;

and

- (iii) for taking action ancillary to issue of charge-sheets, viz. appointment/change of IO/PO, minor corrections in the charge-sheets, if any, before starting of the enquiry, etc.”

3. From the above, we find that the Note was initiated for acceptance of the first stage advice of CVC, initiation of disciplinary proceedings by issuing charge-sheet for major penalty proceedings in terms of Rule 14 of CCS (CCA) Rules, 1965 and for taking action ancillary to issue of charge-sheet. There was no initiation so far as the approval of the draft charge-sheet is concerned. The reading of the Note would only reveal that the process for initiation of the disciplinary proceedings was placed before the Hon'ble Minister. Even the draft charge-sheet does not seem to have been produced. Therefore, the question of approval of the charge-sheet does not arise.

4. It is also pertinent to note that the Hon'ble Minister has been asked to even approve the appointment of inquiry officer / presenting officer and corrections in the charge-sheet, if any. This Note depicts total lack of knowledge on the part of the concerned officers. Such a procedure is in gross contravention of Rule 14 of CCS (CCA) Rules, 1965. The charge-sheet having not been approved by the disciplinary authority as required under sub rule (3) of Rule 14, not only the charge-sheet is liable to be quashed, but all subsequent proceedings, as a consequence of the aforesaid charge-sheet, are liable to be set aside.

5. The controversy is no more *res integra* and squarely covered by the decision of the Hon'ble Supreme Court in **Union of India v. B.V. Gopinath & others**, (2014) 1 SCC 351.

6. In this view of the matter, we allow this O.A. with the following directions:-

- i) The charge-sheet dated 05.03.2012 (Annexure A-1), the inquiry report dated 01.02.2013 (Annexure A-2) and final penalty order dated 15.06.2016 (Annexure A-3) are hereby quashed.
- ii) As a corollary thereto, the applicant shall be entitled to all the consequential benefits, including the pension as also the refund of the pension, if any, recovered in terms of the impugned penalty order. This shall be done within a period of four months from the date of receipt of a copy of this order.
- iii) The disciplinary authority is, however, at liberty to serve the fresh charge-sheet in accordance with law, if so desired.

Original records produced by the respondents are returned.

(K.N. Shrivastava)
Member (A)

November 2, 2017
/sunil/

(Justice Permod Kohli)
Chairman