

**Central Administrative Tribunal
Principal Bench**

**OA No.1278/2012
MA No.1668/2014**

New Delhi, this the 4th day of August, 2016

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

M. S. Murty, IAS (Retd.)
S/o Venkannaha
Aged 63 years,
R/o A-15, Nirupam Estate
Phase-2, Hoshangabad Road,
Bhopal (M. P.)

... Applicant.

(By Advocates: Ms. Tushita Ghosh)

Versus

1. Union of India
Through Secretary
Ministry of Personnel, Public Grievances and Pension,
Department of Personnel and Training,
New Delhi.

2. State of Chhattisgarh
Through Chief Secretary
Mantralaya,
Raipur (Chhattisgarh)

3. Secretary
Government of Chhattisgarh
General Administration Department
Mantralaya,
Raipur (Chhattisgarh).

.... Respondents.

(By Advocate : Shri S. M. Arif for respondent No.1.
Shri Apoorv Kurup, Shri A. P. Mayee and Shri V. C.
Shukla for respondents No.2 & 3.

: O R D E R (ORAL) :

Justice Permod Kohli, Chairman :

The applicant is a 1972 batch Indian Administrative Service (IAS) Officer of Chhattisgarh Cadre. He was appointed Secretary, Department of Sports and Youth Welfare, Government of Chhattisgarh on 16.11.2000, and continued to hold the said post till his superannuation, i.e., 28.02.2005.

2. The State Government proposed to construct a cricket stadium of international standard with capacity of sixty thousand spectators. A Committee, namely, Stadium Nirman Samiti was formed in June, 2002, under the Chairmanship of Minister for Labour, Sports and Youth Welfare comprising of ten other members. This Committee was registered as a Society under the Madhya Pradesh Societies Registration Act, 1993. The applicant being the Secretary, Sports and Youth Welfare was appointed as Member-Secretary to this Committee/Society. He superannuated on 28.02.2005.

3. A charge memo dated 13.02.2007 was issued by respondent No.3 for holding an inquiry under Rule 8 of All India Service (Discipline and Appeal) Rules, 1969 for major penalty against the applicant. It is alleged that this charge memo was not served upon the applicant as the same was sent on a wrong address. The applicant has further mentioned that this charge memo was issued at A-7, Sagar Royal Homes, Hoshangabad Road, Bhopal. It is stated that vide correspondence dated 04.06.2007 addressed to G. A. D., Govt. of Chhattisgarh, the applicant had intimated that the department knew his changed address, i.e., A-15, Nirumpam Estate, Hoshangabad Road, Bhopal, as earlier a letter dated 27.06.2006 issued by the Under Secretary was served upon the applicant at this very address. It is accordingly submitted that the charge memo was sent to a wrong address and he never received the same. It is further stated in para 4.5 of the Application that a letter dated 20.06.2007 was sent to the applicant along with memorandum of charge calling upon him to submit his defence within fifteen days.

4. The respondents have disputed the averments made in the Application by stating that the charge memo was served upon the applicant at the new address, i.e., A-15, Nirumpam Estate, Hoshangabad

Road, Bhopal by a special messenger on 10.03.2007 and the charge memo was received by the applicant's daughter.

5. Be that as it may, the fact remains that the applicant was served with the charge memo, which fact is acknowledged in the OA and during the course of arguments as well. The applicant responded to the charge memo by submission of a detailed representation dated 16.07.2007. Since the applicant had retired on 28.02.2005 and the charge memo was issued to him after his retirement, the applicant filed the present OA in CAT, Jabalpur Bench which was registered there as OA No.919/2007, seeking the following reliefs:-

- I. To requisition the relevant records on the basis whereof, decision was taken to institute disciplinary proceedings against the applicant.
- II. to quash the Memorandum of Charge Sheet along with letter of 20.06.2007/Annexure A-1 & A-2 as also the action intended to be taken thereof.
- III. to grant any other relief which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case.
- IV. Cost of the application be also granted to the applicants."

From the order sheet, it appears that the Tribunal heard the applicant's counsel for grant of interim relief, and while issuing notice an interim order was also passed staying the operation of the impugned charge sheet dated 13.02.2007 as well as the order dated 22.11.2007 for a period of fourteen days. This order was continued from time to time. The last extension of interim order was vide order dated 04.09.2008. It appears that thereafter no specific extension was granted. The said OA came to be transferred to Principal Bench of this Tribunal, and assigned OA No.1278/2012.

6. Ms. Tushita Ghosh, Learned counsel for the applicant has vehemently argued that the charge memo whereby disciplinary

proceedings have been initiated against the applicant is not sustainable in law on two counts. Firstly, the charge memo has been issued after the retirement of the applicant without seeking permission from the competent authority. Secondly, the incidents in respect to which the allegations of misconduct have been made in the articles of charge are more than four years' old, hence barred by limitation.

7. In support of the first contention, the applicant has referred to Rule 6 (1) (b) of All India Services (Death-cum-Retirement Benefit) Rules, 1958. Rule 6 (1) (b) *inter alia* provides that the departmental proceedings against a pensioner if not instituted during his service shall not be instituted save with the sanction of the Central Government and shall be in respect of an event which took place not more than four years before the institution of such proceedings. This rule is *pari materia* to Rule 9 of CCS (Pension) Rules, 1972.

8. The first contention of learned counsel for the applicant stands belied from articles of charge itself, wherein it is specifically provided that permission under Rule 6 (b) of Rules, 1969 had been obtained from the Central Government vide Letter No.106/34/2006-AVD dated 24.01.2007. To the same effect there are averments in para 14 of the counter affidavit of respondent No.1 stating therein that the charge sheet had been issued after obtaining necessary sanction from the Central Government for initiation of disciplinary proceedings against the applicant. Thus, there is no substance in the first contention of leaned counsel for the applicant.

9. Coming to the second ground, we find that in the imputation of charges accompanying the charge memo, the allegations against the applicant relate to the period from 05.06.2002 to 28.02.2005. There are specific averments in para 6 of the counter affidavit filed by respondents No.2 & 3. It is stated that the irregularities mentioned in the articles of

charge were for the period commencing from 14.02.2003 which continued till 28.02.2005, the date when applicant superannuated. Our attention has also been drawn to the Audit Inspection Report, Part-II (A (Annexure R/6), wherein various irregularities in the construction of stadium have been noticed and pointed out. We need not go into the details of such irregularities.

10. From the articles of charge, we find that there are serious allegations against the applicant for sanctioning expenditure without approval of the Finance Department and granting technical sanction which was required to be obtained from the Public Works Department of the State.

11. At this stage, we need not go into the veracity of the allegations or otherwise. However, we find that the allegations in the nature of continuing irregularities are of recurring nature, and thus the events for which misconduct is attributed to the applicant were within the period of four years from the date charge memo was issued. Thus, the second contention of the applicant also deserves to be rejected.

12. It is settled law that at the stage of charge memo interference of the Court or Tribunal is warranted only if disciplinary proceedings have been initiated by an incompetent person or the proceedings are barred by any law. We find that none of the deficiencies are there in respect to the initiation of the disciplinary proceedings.

13. For the above reasons, we do not find any merit in this OA. It is accordingly dismissed. However, since the matter is pending in Tribunal for a period of almost nine years and the disciplinary proceedings are still pending, respondents are directed to complete the same within a period of six months from the date of receipt of copy of this order. The applicant

shall associate in the disciplinary inquiry. In the event, the applicant refuses to associate, respondents are at liberty to proceed against him in accordance with law. All ancillary applications shall stand disposed of.

(K. N. Shrivastava)
Member (A)

(Permod Kohli)
Chairman

/pj/