

**Central Administrative Tribunal
Principal Bench**

**OA No.858/2016
MA No.2955/2016**

New Delhi, this the 30th day of September, 2016

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

Nidhish Chandra Gupta,
Executive Engineer,
Aged about 59 years,
S/o Late Shri S.C. Gupta,
R/o 209, Marvel Homes,
Sec-61,
Noida-201301, U.P.

...applicant

(By Advocate : M.K. Bhardwaj)

Versus

1. Delhi Development Authority,
Through its Vice Chairman,
Vikas Sadan, New Delhi.
2. Engineer Member,
Delhi Development Authority,
B-Block, Vikas Sadan,
New Delhi.

...respondents

(By Advocate : Ms. Nishi Chaudhary)

ORDER (ORAL)

Mr. Justice Permod Kohli, Chairman :

MA No.2955/2016

This MA has been filed seeking a direction for disposal of the present OA in terms of the judgment dated 19.08.2016 passed by this Tribunal in OA No.233/2016 with OA No.880/2016.

O.A. No.858/2016

The applicant was served with the Memorandum of Charge dated 01.09.2015 containing following articles of charge :-

“STATEMENT OF ARTICLES OF CHARGE FRMAED AGAINST SH. N.C. GUPTA, EXECUTIVE ENGINEER/DDA

Shri N.C. Gupta, EE while functioning as AE(P)ED-3 as well as AE(Field)/ED-3 during the period 2011-12 had committed irregularities in the following work as detailed below :-

Name of work Maintenance of various colonies in East Zone.

SH : Supply, installation, testing and commissioning of R.O., System of capacity of 4000 LPH in Block A, B1, B2, C & D Lok Nayak Puram (Bakkarwala).

Estimated Cost : Rs.50,57,000=00

Article -I :

That the said Sh. N.C. Gupta, EE, while functioning as AE(P)/ED-3 as well as AE (Field)/ED-3 proposed a detailed estimate amounting to Rs.55,12,500/- for installation of 5 no. RO Plants for treatment of tube-well water to be used for washing, bathing and toilets etc. instead of proposing for installation of filtration plant/softening plant without any approval of Competent Authority.

Article-II :

That the said Sh. N.C. Gupta, EE, while functioning as AE(P)/ED-3 as well as AE(Field)/ED-3 proposed for the installation of 5 nos. RO Plants of 4000 litre per hour capacity each without highlighting the fact that 5 nos. Of RO Plants were already installed and functioning in the same pockets and were underutilized at the time of preparing the estimate for 5 nos. Of additional RO Plants. This is hiding of facts and reflects malafide intention on his part.

Article-III:

That the said Sh. N.C. Gupta, EE, while functioning as AE(P)/ED-3 as well as AE(Field)/ED-3 proposed and forwarded the provision for new ROs taking false support of

representation of the RWA dated 12.05.2011/13.06.2011. The RWA representation was regarding making available DJB water to Bakkarwala Housing and not for providing additional ROs and scarcity of portable water. This is misleading and mis-representation of the facts.

Article-IV:

That the said Sh. N.C. Gupta, EE, while functioning as AE(P)/ED-3 as well as AE(Field)/ED-3 proposed and forwarded for installation of additional 5 nos. ROs which was falsely supported by test report issued by DJB, Zonal Lab. Haider Pur signed on 10.6.2011 and having diary no.410 dated 14.06.2011. The result says that water was not fit for drinking purposes only. The results do not indicate that water was not fit for washing and bathing purposes.

Article-V :

That the said Sh. N.C. Gupta, EE, while functioning as AE(P)/ED-3 as well as AE(Field)/ED-3 has wrongly proposed the A/R & M/O for carrying out the said work under the head of maintenance of various colonies in East Zone for which Technical Sanction was accorded by the SE/CC-10 vide T.S. No.12/EE(P)/CC-10/DDA/2011-12. The work should have been taken through A/E & E/S being a new work.

Article-VI:

That the said Sh. N.C. Gupta, EE, while functioning as AE(P)/ED-3 as well as AE(Field)/ED-3 proposed for installation of 5 nos. ROs Plants without ensuring that proper arrangement for civil works/electrical provisions, required for installation of RO Plants have been made. In addition no proper planning for use of RO waste water to be generated by these RO Plants was made. This reflects poor planning of his part and malafide intention.

That the said Sh. N.C. Gupta, EE, by his above act failed to maintain absolute devotion to duty and behaved in a manner unbecoming of an employee of the authority thereby violating sub rule 1(i), 1(ii) of Regulation 4 of DDA Conduct, Disciplinary and Appeal Regulation 1999.”

2. The allegations were levelled against the applicant when he was serving as Assistant Engineer. Exactly the same allegations

were made against Shri M.C. Singhal, the then Executive Engineer (EE) and Shri Brij Pal, the then Superintending Engineer (SE). The allegations against the present applicant are exactly similar in nature as against the aforesaid two officers. Rather the applicant was junior officer. Vide judgment dated 19.08.2016 passed in OA No.233/2016 filed by Shri M.S. Singhal, the then EE with OA No.880/2016 filed by Shri Brij Pal, the then SE, the Tribunal has made following observations :

“9. From the record we find that no motive is attributed to the applicants. The recommendations were apparently in public interest as per the notings of the EM/DDA and duly approved by then VC/DDA. The applicants have alleged that the water was being supplied to the residents through tankers causing loss of crores of rupees and that seems to be the reason for not approving the recommendation of the applicants for installation of the RO plant in the area. In any case, the recommendation of applicant M.C. Singhal, EE, and the sanction granted by applicant Brij Pal, SE, has not been implemented. The project was never executed, hence no loss to the State exchequer and no person is the beneficiary of the said recommendation, even if it is assumed that the recommendations were not proper. What kind of misconduct can be attributed to the applicants is not understandable. Even if the allegations are accepted on their face value, in absence of there being any motive attributed to the applicants, no misconduct is constituted. CVO in its investigation has categorically opined that the water available from the installed ROs was not sufficient even for the occupied flats, and the installation of additional ROs stands justified. These findings of CVO have not been controverted by any competent authority in any manner whatsoever. Under such circumstances, the charge memo containing charges which are overlapping and relate to the only incident of recommendation for additional ROs, is unjustified requiring judicial intervention by this Tribunal at this stage.”

3. The OAs were allowed and impugned Charge Memorandum dated 01.09.2015 were quashed. The case of the applicant is exactly

the same. This OA is accordingly allowed in terms of the judgment dated 19.08.2016 passed in OA No.233/2016 with OA No.880/2016.

4. In view of this, MA No.2955/2016 stands disposed of.

(V.N. Gaur)
Member (A)

(Justice Permod Kohli)
Chairman

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