

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

OA No.984/2013

This the 28th day of April, 2016

Hon'ble Mr. Justice M.S. Sullar, Member, (J)

Hon'ble Mr. K.N. Shrivastava, Member (A)

Sh.Bhudev Prasad Rathore, Aged about 56 years
S/o Sh. Mawasi Ram,
R/o e-200, Krishan Vihar,
Near Shrangar Jewellers, Som Bazar Road,
Delhi-110086
Presently Working as J.E.,
Store Division-II, Paschim Vihar,
DDA Office, Near Jal Board Office,
Outer ring Road,
Delhi-110015.

..... Applicant

(By Advocate: Shri Malaya Chand)

Versus

Delhi Development Authority,
Through Its Vice Chairman
Vikas Sadan, INA, New Delhi.

..... Respondents

(By Advocate: Ms.Anju Bhushan)

ORDER(ORAL)

By Hon'ble Mr. K.N. Shrivastava, M(A):

The applicant is working as Junior Engineer (Civil) in Delhi Development Authority (DDA). He has filed the present OA against the Annexure A-1 communication dated 12.04.2012 issued by the Dy. Director (Personal), DDA denying him NOC for Passport. The contents of the letter read as under:-

“your request for issue of NOC for passport has already been considered by the competent authority but the same cannot be acceded to for issue of NOC for passport till the decision on Major penalty charge sheet issued to you by the

vigilance branch vide order No.F.27(7)2011/AVO/(Building) dated 09.05.2011.”

2. During the course of hearing, learned counsel for the applicant stated that vide Annexure A-3 order dated 16.08.2012 the Disciplinary Authority had already passed the penalty order imposing penalty of reduction by two stages in the scale of pay for a period of two years with cumulative effect on the applicant. As such, there is no disciplinary enquiry pending against him as of now. Learned counsel for the applicant drew our attention to the Annexure A-4 order of the criminal court in which it stated as under:-

“I consider that restriction cannot be imposed for issuance of passport to the accused. However, accused shall not leave the country without the permission of the Court. Hence, passport authority may issue the passport as per rules.”

3. The respondents in a reply to RTI query by the applicant have replied stating that NOC can be given to the applicant only after the disciplinary enquiry is concluded.

4. During the course of hearing, learned counsel for the respondents produced a copy of a letter of CBI dated 29.04.2015 addressed to Dy. Director (Vigilance), DDA informing that Hon’ble Criminal Court has already acquitted the accused on 06.05.2015. In the said letter, the CBI has also informed that a criminal appeal has already been filed in the Hon’ble High Court of Delhi. Learned counsel for the respondents however, submitted that since the criminal appeal is pending in the Hon’ble Delhi High Court, NOC cannot be issued to the applicant.

5. Having regard to the submissions made by learned counsel for the parties and taking into considering the provisions of the manual on

Establishment and Administration pertaining to issuance of NOC for passport, we are of the considered view that issuance of NOC for passport can be denied to a Govt. servant only if there is any Disciplinary Enquiry (DE) pending against him or if there is any specific embargo imposed by any court of law for it and not otherwise. In the instant case, neither any DE is pending nor any embargo is imposed by any court of law. As such, we are of the opinion that the respondent is obliged to issue the NOC to the applicant.

6. In the conspectus, Annexure A-1 communication issued by the respondents is hereby quashed and set aside. We direct the respondent to issue NOC for passport to the applicant within a period of 4 weeks from the date of receipt of a certified copy of this order. No order as to costs.

(K.N. Shrivastava)
Member(A)

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

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