

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**OA NO.1960/2015
MA NO.1764/2015**

Reserved on 27.05.2016
Pronounced on 01.06.2016

HON'BLE MR P.K. BASU, MEMBER (A)
HON'BLE DR B.A. AGRAWAL, MEMBER (J)

S.K. Razzak,
S/o Shri S. Babjani,
Aged 45 years,
Executive Engineer, Gr.'A',
Room No.334,
Ministry of Road Transport & Highways,
1, Parliament Street, New Delhi-110001. ...Applicant

(By Advocate: Mr. Girish C. Jha with Mr. Ranjit Sharma & Mr. Sushil Kumar Tripathi)

VERSUS

1. Union of India through
The Secretary,
Ministry of Road Transport
and Highways,
1, Parliament Street,
New Delhi-110001.
2. Chairman,
National Highways Authority of India,
Ministry of Road Transport
and Highways,
G-5 & 6 Sector-10 Dwarka,
New Delhi-110075.
3. Chief Vigilance Officer,
National Highways Authority of India,
Ministry of Road Transport
and Highways,
G-5 & 6 Sector-10 Dwarka,
New Delhi-110075. ...Respondents

(By Advocate: Mr. Rajpal Singh and Mr. Ashish Kumar)

: ORDER :

DR BRAHM AVTAR AGRAWAL, MEMBER (J):

The applicant, an Executive Engineer with the respondent no.1, while on deputation with the NHA I (respondent no.2), had suffered a minor penalty proceedings under the relevant NHA I Regulations r.w. rule 16 of the CCS (CCA) Rules 1965, vide the charge memo dated 28.05.2009 (Annexure C), which, before its culmination and after his repatriation on 07.09.2009, on the advice of the UPSC, was substituted with the major penalty proceedings under rule 14 of the said Rules, vide the charge memo dated 19.10.2012 (Annexure K). The statement of articles of charge reads as under:

"Article-I

Shri S. Razzak, while posted and functioning as PD, PIU, during the period March 2008 to December 2008 obtained illegal gratification, other than legal remuneration, from the proprietor of M/s Diligent Enterprises for showing undue favour to him in discharge of his official duties.

By his aforesaid act, Shri Razzak exhibited lack of integrity and conducted himself in a manner unbecoming of a Government Servant, thereby contravening Rule 3(1) (i) and 3(1) (iii) of CCS (Conduct) Rules, 1964.

Article-II

Shri Razzak, while posted and functioning as PD, PIU Chitradurga, during the period March 2008 to December 2008, failed to ensure compliance with the instructions of DGR/NHA I requiring payment of salary by the agency of Gulilau Toll Plaza under PIU Chitradurga, M/s Diligent Enterprises to staff/employees by cheque.

By the aforesaid acts of omission, Shri Razzak exhibited lack of devotion to duty, thereby contravening Rule 3(1) (ii) of CCS (Conduct) Rules, 1964.

Article-III

Shri S. Razzak, while posted and functioning as PD, PIU Chitradurga during the period March 2008 to December 2008, failed to ensure scrupulous implementation of the instructions of DGR/NHAI inasmuch as he failed to ensure that the wages claimed by the proprietor M/s Diligent Enterprises from NHAI in respect of the staff employed by him in the Toll Plaza were paid to them fully and correctly in accordance with the DGR wage structure.

By his aforesaid acts of omissions, Shri Razzak exhibited lack of devotion of duty, thereby contravening Rule 3(1) (ii) of CCS (Conduct) Rules, 1964."

2. The applicant, because of the aforesaid disciplinary proceedings, also suffered in his promotion to the post of Superintending Engineer. The DPC meeting was held on 27.01.2012 and its recommendations about the applicant were kept in 'sealed cover' (vide Annexures A, G and I).

3. The applicant has been agitating his grievances at Hyderabad. Firstly, he filed the OA No.1197/2012 in this Tribunal's Hyderabad Bench claiming his promotion, which was disposed of by the order dated 27.02.2013 (Annexure L). Secondly, he filed the OA No.1268/2012 in the said Bench challenging the aforesaid second charge memo dated 19.10.2012, which was dismissed by the order dated 28.10.2014. While the second order dated 28.10.2014, which is also stated to have attained finality, has held that the second charge memo in

supersession of the earlier charge memo is in accordance with the provisions of the CCS (CCA) Rules and the action of the respondent no.1 cannot be held to be illegal, the first order dated 27.02.2013 is under challenge in the W.P. No.10452/2015 filed in the Hon'ble High Court of Judicature at Hyderabad (Annexure R1/1), which is stated to be pending.

4. The instant OA has been filed challenging Annexure A, which is the impugned order dated 16.09.2013 issued by the respondent no.1. The applicant also prays that the 'sealed cover' be opened and that he be given promotion to the post of Superintending Engineer w.e.f. 06.03.2012 (vide Annexure F) with all consequential benefits.

5. We have heard the learned counsel for the parties, perused the pleadings as well as the rulings cited at the Bar, and given our thoughtful consideration to the matter.

6. The aforesaid impugned order (Annexure A) concludes as under:

"Now, therefore, the undersigned orders that the recommendation of Departmental Promotion Committee in respect of Shri Shaik Keyaan Razzak, Executive Engineer(Civil) for promotion to the post of Superintending Engineer(Civil) shall continue to be kept in sealed cover until Sh. Shaik Keyaan Razzak is completely exonerated in the disciplinary proceedings pending against him."

7. In the aforesaid writ petition also, the applicant's prayers include a direction to the respondent no.1 to open the 'sealed cover' and give effect to the recommendations of the DPC for promotion of the applicant to the post of Superintending Engineer with all consequential benefits on par with his juniors.

8. In the light of the above, the present OA may be said to be an abuse of the process of law, in view of the aforesaid writ petition pending in the Hon'ble Hyderabad High Court. The impugned order dated 16.09.2013 (Annexure A) cannot be said to be immune from outcome of the writ petition.

9. In our view, the OA is misconceived and not maintainable. The same is hereby dismissed. The MA No.1764/2015 also stands disposed of. No order as to costs.

(Dr. B.A. Agrawal)
Member (J)

(P.K. Basu)
Member (A)

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