

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

OA No.1990/2014

This the 12th day of May, 2016

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

K.V. Singh, Chief Engineer,
Aged about 53 years,
S/o Sh. Dhup Singh,
R/o B-81, Sec-36, Noida,
UP. ... Applicant

(By Advocate: Shri M.K. Bhardwaj)

Versus

UOI & Ors. through

1. Union of India,
Through its Secretary,
Ministry of Urban Development,
New Delhi.
2. The Joint Secretary (UTS-II),
Govt. of India, Ministry of Home Affairs,
North Block, New Delhi
5th Level, C-502, Delhi Secretariat,
IP Estate, New Delhi.
4. The Principal Secretary,
Department of Urban Development/
DUSIB, Govt. of NCT of Delhi
Delhi Sachivalay, IP Estate,
New Delhi... Respondents

(By Advocate: Shri Ashok Kumar)

ORDER(ORAL)

Hon'ble Mr. Justice Permod Kohli

The applicant is presently working as Chief Engineer (Elec.). He was issued memorandum dated 10.4.2008 (Annexure A-2) seeking his explanation for alleged contravention of CPWA-code during the period March, 1992 to July,

1992 when he was working as Executive Engineer(E). The applicant tendered his explanation to the aforesaid memorandum on 28.11.2008. A memorandum of charge under Rule 16 of CCS Rules,1965 came to be issued against him on 07.11.2013 (Annexure A1). It is evident from the memorandum that the allegation against the applicant related to the period from March, 1992 to July, 1992. The applicant has been charged of some irregularities in making purchases from some unauthorised co-operative stores and thus causing a loss of Rs.2,68,000/- to the department. The main ground to challenge this memorandum of charge is inordinate delay of 21 years in issuing the charge sheet from the date of the alleged irregularities and at least 5 years from the date of first explanation to the memorandum.

2. The respondents in their counter affidavit, have submitted two explanations for the delay. A chart containing chronological events has been placed on record as Annexure A-7 with the counter affidavit. We have perused the chart. According to this chart, the incident came to the notice of the authorities on 20.03.2001 on the basis of a complaint lodged by Shri Rattan Lal, Executive Engineer. The first memo seeking the explanation of the applicant was issued to him only on 10.04.2008 after a gap of about 7 years from the date of receiving the complaint. Even when the explanation was tendered by the applicant in November,2008, no immediate action was initiated to issue a charge sheet in accordance with Rule 14 or 16 of CCS(CCA) Rules,1965. The charge sheet came to be issued only on 07.11.2013 i.e. after a lapse of 5 years from the date of the explanation tendered by the applicant. From the chart (Annexure A-7), we find no valid reason for delay in issuance of the charge sheet to the applicant. We have also noticed that the applicant was working as an Executive Engineer during

the period of alleged irregularities and has earned promotions as Superintending Engineer and then as Chief Engineer. Obviously, he got promotion on the basis of his service records. At this belated stage, the respondents cannot be allowed to initiate disciplinary proceedings after a delay of more than 20 years from the date of the alleged incident and at least 5 years from the date of the explanation of the applicant to the first charge memo. Even the impugned charge sheet indicates imposition of only minor penalty under Rule 16 of CCS(CCA) Rules, 1965 on the applicant. The charge against the applicant is not grave in nature.

3. We are persuaded to quash the impugned order in view of following the observations of Hon'ble Apex Court in the case of

P.V.MahadevanV.M.D.Tamil Nadu Housing Board -JT 2005(7) SC 417:

"16. Under the circumstance, we are for the opinion that allowing the respondent to proceed further with the departmental proceedings at this distance of time will be very prejudicial to the appellant. Keeping a higher Government official under charges of corruption and disputed integrity would cause unbearable mental agony and distress to the officer concerned. The protracted disciplinary enquiry against a Government employee should, therefore, be avoided not only in the interest of the Government employee but in the public interests and also in the interests of inspiring confidence in the minds of the Government employees. At this stage, it is necessary to draw the curtain and to put an end to the enquiry. The appellant had already suffered enough and more on account of the disciplinary proceedings. As a matter of fact, the mental agony and sufferings of the appellant due to the protracted disciplinary proceedings would be much more than the punishment. For the mistakes committed by the department in the procedure for initiating the disciplinary proceedings, the appellant should not be made to suffer."

4. Similar view has been expressed by the Hon'ble Supreme Court in **M.V.Bijlani v. Union of India &Ors. – JT 2006 (4) SC 469** wherein their Lordships held that initiation of the disciplinary proceedings after a period of six years and continuance thereof for a further period of seven years evidently prejudiced the delinquent officer, and that the Tribunal as also the High Court erred in failing to take into consideration this factor. While holding so, the Apex Court also took into consideration their earlier judgment in **State of Madhya Pradesh Vs. Bani Singh & Another** [JT 1990 (2) SC 54], wherein it has been held as under:-

“ The irregularities which were the subject matter of the enquiry is said to have taken place between the years 1975-77. It is not the case of the department that they were not aware of the said irregularities, if any, and came to know it only in 1967. According to them even in April 1977 there was doubt about the involvement of the officer in the said irregularities and the investigations were going on since then, if that is so, it is unreasonable to think that they would have taken more than 12 years to initiate the disciplinary proceedings as stated by the Tribunal. There is no satisfactory explanation for the inordinate delay in issuing the charge memo and we are also of the view that it will be unfair to permit the departmental enquiry to be proceeded with at this stage.”

5. On the contrary, learned counsel for the respondents has relied upon the judgment of Delhi High Court dated 30.08.2009 passed in WP (C) No.9493/2009 **UOI v. Anil Puri** wherein Hon'ble Court has refused to interfere in the disciplinary proceedings initiated after a period of 10 years.

6. We have carefully gone through the aforesaid judgment. In **Anil Puri** (supra), Hon'ble High Court found that the delay was also partly attributable to the petitioner himself who took four years to respond to the charge sheet.

The charge against the delinquent official was also serious in nature deserving award of major penalty. Hence, the Hon'ble High Court refused to interfere in the disciplinary proceedings. In the present case, the memorandum of charge has been issued to the applicant for imposing only minor penalty and the inordinate delay in issuing it, as indicated in para (1), is entirely attributable to the respondents.

7. In view of the above reasons, the OA is allowed. Impugned order dated 10.04.2008 is hereby quashed. No order as to costs.

(K.N. Shrivastava)
Member(A)

(Permod Kohli)
Chairman

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