

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**O.A. No.3716/2016
MA No. 3049/2017**

New Delhi this the 25th day of October, 2017

**HON'BLE MR. JUSTICE PERMOD KOHLI, CHAIRMAN
HON'BLE MR. K.N. SHRIVASTAVA, MEMBER (A)**

Mr. Narinder Kumar Sharma,
Aged: 60 years plus, Son of Mr. Hetram Sharma
Superintending Engineer, Retired on 30.09.2016,
From Irrigation and Flood Control Department,
Government of NCT Delhi,
Resident of: A-2, First Floor, Dayanand Colony,
Lajpat Nagar-IV, New Delhi-110024. Applicant

(By Advocate: Shri Anmol Pandita)

Versus

1. Lieutenant Governor, Delhi,
Through/service to be effected upon its Director,
At Directorate of Vigilance,
Government of NCT Delhi,
4th Level, C-Wing, Delhi Secretariat,
I.P. Estate, New Delhi-110002.
2. Government of NCT of Delhi,
Through/service to be effected upon its:
Chief Secretary, at: Delhi Secretariat, I.P. Estate,
New Delhi-110002.
3. Irrigation and Flood Control Department,
Through/service to be effected upon its: Secretary,
at: 5/9 Underhill Road,
Delhi-110054. Respondents

(By Advocate: Shri B.N.P. Pathak)

ORDER (ORAL)**Hon'ble Mr. Justice Permod Kohli, Chairman**

The applicant was appointed as Assistant Engineer (Civil) and after earning promotions from time to time, retired as Superintending Engineer on 30.09.2016. A charge memo dated 28.09.2016 was served upon the applicant vide communication dated 30.09.2016 i.e., on the date of his retirement. The charge memo (Annexure A-1) is accompanied with the statement of articles of charge framed against the applicant, statement of imputation, list of documents and list of witnesses. As many as seven charges have been framed against the applicant. The first charge relates to obtaining of Passport in 1987 without obtaining No Objection Certificate from the department. The second charge is regarding renewal of the said Passport in the year 1997 again on the ground of not securing No Objection Certificate from the department. Charge number three pertains to furnishing wrong information to the Passport authorities. Charge number four relates to furnishing of false information to the Passport authorities for securing another Passport. Fifth charge relates to travelling abroad between 17.09.2003 to 28.09.2003 without permission from the competent authority. Charge number six relates to unauthorised absence from duty for the aforesaid period, whereas the seventh charge is regarding giving wrong/false statement to the officers of the anti-corruption branch.

2. Admittedly, no action was taken against the applicant during all these years. Even for absence from duty in the year 2003, no proceedings, not even a show cause notice seems to have been issued to the applicant. The present charge sheet has been issued by the respondents on the basis of complaint lodged by the father of the applicant on 21.09.2016 as is evident from the counter affidavit Para (h and i). No explanation has been tendered in the reply

regarding inordinate delay in initiating disciplinary proceedings against the applicant. The delay in such a case particularly when the charge memo has been issued on the date of retirement is totally unwarranted and impermissible in law. Hon'ble Supreme Court in the case of State of Madhya Pradesh v. Bani Singh and Another, 1990 Supp. SCC 738 has held as under:-

"4. ... 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. In any case there are no grounds to interfere with the Tribunal's orders and accordingly we dismiss this appeal."

2. For the above reasons, this OA is allowed. The impugned charge memo and subsequent proceedings, if any, are hereby quashed. Any pending proceedings are also declared to be illegal. No order as to costs.

(K.N. SHRIVASTAVA)
MEMBER (A)

(JUSTICE PERMOD KOHLI)
CHAIRMAN

/ns/