

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014

Order reserved on: 15.02.2017

Order pronounced on:06.03.2017

Hon'ble Mr. Justice PermodKohli, Chairman

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

OA No.3037/2014

Suresh Sharma,
S/o Late Shri O.P. Sharma,
R/o 305, Pink Apartments,
Sector-18-B, Dwarka,
New Delhi-110075.

-Applicant

(By Advocate: Shri M.K. Bhardwaj&Shri M.D. Jhangra)

Versus

1. NTRO, through its Chairman,
Block-III, Old JNU Campus,
New Delhi-110067.
2. Shri G.S.N. Raju,
Scientist 'H', Centre Director, CMMS
And Inquiring Officer, NTRO,
Block-III, Old JNU Campus,
New Delhi-110067.
3. Controller of Administration,
NTRO, Block-III, Old JNU Campus,
New Delhi-110067.
4. Air Cmde (Retd.) V. Sehgal,
OSD (on contract) & Acting Director
(Establishment/Pers)
NTRO, Block-III, Old JNU Campus,
New Delhi-110067.
5. Dy. Director and Head of Office,

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

NTRO Block-III, Old JNU Campus,
New Delhi-110067.

6. Director-in-charge of NTRO
Prime Minister's Office, South Block,
New Delhi-110 011. -Respondents

(By Advocate: Shri D.S. Mahendru)

OA No.3061/2014

Suresh Sharma,
S/o Late Shri O.P. Sharma,
R/o 305, Pink Apartments,
Sector-18-B, Dwarka,
New Delhi-110075. -Applicant

(By Advocate: Shri M.K. Bhardwaj)

Versus

1. NTRO, through its Chairman,
Block-III, Old JNU Campus,
New Delhi-110067.
2. Controller of Administration,
NTRO, Block-III, Old JNU Campus,
New Delhi-110067.
3. Maj. Gen(Retd.) S.K. Wadhawan
Centre Director (CED) and
NTRO, Block-III,
Old JNU Campus, New Delhi-110067
4. Air Cmde (Retd.) V. Sehgal,
OSD (on contract) & Director Establishment-II,
NTRO, Block-III, Old JNU Campus,
New Delhi-110067.
5. Dy. Director and Head of Office,
NTRO Block-III, Old JNU Campus,
New Delhi-110067.
6. Director-in-charge of NTRO

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

Prime Minister's Office, South Block,
New Delhi-110 011.

-Respondents

(By Advocate: Shri D.S. Mahendru)

OA No.3087/2014

Suresh Sharma,
S/o Late Shri O.P. Sharma,
R/o 305, Pink Apartments,
Sector-18-B, Dwarka,
New Delhi-110075.

-Applicant

(By Advocate: Shri M.K. Bhardwaj)

Versus

1. NTRO, through its Chairman,
Block-III, Old JNU Campus,
New Delhi-110067.
2. Controller of Administration,
NTRO, Block-III, Old JNU Campus,
New Delhi-110067.
3. Maj. Gen(Retd.) S.K. Wadhawan
Centre Director (CED) and
NTRO, Block-III,
Old JNU Campus, New Delhi-110067
4. Air Cmde (Retd.) V. Sehgal,
OSD (on contract) & Director Establishment-II,
NTRO, Block-III, Old JNU Campus,
New Delhi-110067.
5. Dy. Director and Head of Office,
NTRO Block-III, Old JNU Campus,
New Delhi-110067.

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

6. Director-in-charge of NTRO
Prime Minister's Office, South Block,
New Delhi-110 011. -Respondents

(By Advocate: Shri D.S. Mahendru)

ORDER

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

As common questions of law and fact are raised by the applicant in these three OAs, we proceed to dispose them of by this common order.

2. The applicant has filed these three OAs under Section 19 of the Administrative Tribunals Act, 1985, in regard to three charge-sheets issued to him. The reliefs prayed for in the OAs are as under:

OA-3037/2014

"i) To quash and set aside the impugned Memorandum No. V(B)/Misc.(DE/SS)/19116/2011-10245/10640 dated the 22nd September, 2011, and subsequent proceedings;

ii) To declare the action of the respondents in initiating Disciplinary Proceedings in violation of the statutory rules vide their Order No. V(B)/Grp-A/19105/PF(29)/2006-7517 dated 01.07.2014 as illegal and arbitrary, and order consequent release of all the pensionary benefits like DCRG, Communication of Pension, along with interest @ 12% from 01.07.2014.

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

iii) To recommend disciplinary action against those respondents responsible for harassing the whistleblower applicant, as provided for in the CCS (CCA) Rules, 1965 and CCS (Conduct) Rules, 1965, without prejudice to the right of the applicant to move appropriate judicial forum for any civil/criminal action against such respondents responsible for harassment caused by their illegal actions.”

OA No.3087/2014

“i) To quash and set aside the impugned Memorandum No. XXVII/12/NTRO/2012(2)-82-D dated the 17th August, 2012, and subsequent proceedings thereunder

ii) To declare the action of the respondents in initiating Disciplinary Proceedings and continuing the same in violation of the statutory rules vide their Order No. V(B)/Grp-A/19105/PF(29)/2006-7517 dated 01.07.2014 as illegal and arbitrary, and order consequent release of all the pensionary benefits like DCRG, Communication of Pension, along with interest @ 12% from 01.07.2014 and issue of PPO for Regular Pension and of notification regarding superannuation of the applicant on the afternoon of 30th June, 2014.

iii) To recommend disciplinary action against those respondents responsible for harassing the whistleblower applicant, as provided for in the CCS (CCA) Rules, 1965 and CCS (Conduct) Rules, 1965, without prejudice to the right of the applicant to move appropriate judicial forum for any civil/criminal action against such respondents responsible for harassment caused by their illegal actions.”

OA No.3061/2014

“i) To quash and set aside the impugned Memorandum No. V(B)/Misc.(DE/SS)/19116/2012-92 dated the 7th September, 2012;

ii) To declare the action of the respondents in initiating Disciplinary Proceedings in violation of the statutory rules vide their Order No. V(B)/Grp-A/19105/PF(29)/2006-7517 dated 01.07.2014 as illegal and arbitrary, and order consequent release

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

of all the pensionary benefits like DCRG, Communication of Pension, along with interest @ 12% from 01.07.2014.

iii) To recommend disciplinary action against those respondents responsible for harassing the whistleblower applicant, as provided for in the CCS (CCA) Rules, 1965 and CCS (Conduct) Rules, 1965, without prejudice to the right of the applicant to move appropriate judicial forum for any civil/criminal action against such respondents responsible for harassment caused by their illegal actions.”

3. The brief facts are as under.

3.1 The applicant joined NTRO-respondent organization, on deputation basis from CSS, as Deputy Director in July, 2005. He was absorbed in NTRO in February, 2006 as a Director. He earned his promotion as Additional Controller (Admn.) in November, 2009.

3.2 Three charge-sheets came to be issued to him; the first one on 22.09.2011, the second one on 17.08.2012 and the third one on 07.09.2012.

3.3 The applicant challenged the charge-sheets dated 17.08.2012 and 07.09.2012 in OA-464/2013, which was disposed of by this Tribunal vide order dated 26.11.2013; the operative part of which reads as under:

“4. Today, the learned counsel for the respondents has produced the relevant file in which the aforesaid two memoranda have been issued. It is seen from it that they

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

were issued not only after the approval of the competent authority but they are also on different set of charges which are not consequential to each other.

5. In view of the above position, agreeing with the submissions of the learned counsel for the Respondents, this OA is closed with liberty to the applicant to file separate OAs, if so advised.”

3.4 The applicant thereafter challenged the three charge-sheets dated 22.09.2011, 17.08.2012 and 07.09.2012 in three separate OA No.3037/2014, OA No.3061/2014 and OA No.3087/2014 respectively. On 09.09.2014, when the OAs were taken up for hearing, the learned counsel for the applicant pressed for the following interim relief:

“In view of the facts narrated above, it is humbly prayed that this Hon’le Tribunal, Principal Bench, New Delhi may be pleased to stay any further action on the impugned Memorandum/Orders till this O.A. is decided upon.”

The prayer for interim relief was declined by the Tribunal, vide order dated 09.09.2014, operative part of which reads as under:

“As far as interim relief, sought by the applicant, is concerned, we have perused the departmental file. We are satisfied that the initiation of the departmental proceedings as well as the charge sheet have been approved by the competent authority, namely the Prime Minister in the capacity of disciplinary authority.”

The applicant thereafter challenged the interim order dated 09.09.2014 before the Hon’ble High Court of Delhi in Writ Petition

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

(C) No.6791/2014, which was dismissed as withdrawn vide judgment dated 01.10.2014. The Hon'ble High Court, however, issued the following directions in its judgement:

“During the course of hearing, it was suggested to the parties that the relevant part of the file containing the competent authorities approval may be produced before the CAT for its consideration, and if needed, for the petitioner's inspection of that part of the file. This course was acceptable to the respondents' counsel, who was in the Court, as instructed.

Accordingly, at the stage of hearing of the application, the Tribunal would consider the relevant record pertaining to the approval of the proposal to charge sheet the petitioner; inspection of that page, or those pages would be permitted in the Court to learned counsel for the petitioner. The CAT shall record specific findings in this regard apart from findings in regard to the case.

In view of the above, learned counsel for the petitioner wishes to withdraw the petition. The writ petition is dismissed as withdrawn but in terms of the above orders”.

3.5 All the three OAs filed by the applicant, viz. OA No.3037/2014, 3061/2014 and 3087/2014 were dismissed by the Tribunal vide a common order dated 18.02.2015.

3.6 The applicant challenged the Tribunal's order dated 18.2.2015 in Writ Petition (C) No.2446/2015 before the Hon'ble High Court of Delhi, which was disposed of by judgment dated 13.03.2015 with the following directions:

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

“In these circumstances, we deem it proper to direct the Tribunal to again carry out the inspection of the relevant files which shall be produced by the respondents in terms of the order dated 1st October, 2014 already passed by this Court and after examination of the records and before giving their views the Tribunal shall also take into consideration the brief note submitted by the petitioner highlighting the fact that necessary approvals by the disciplinary authority at the relevant stages were not granted and it shall record specific findings in this regard apart from findings in regard to the case. Mr Bhardwaj, Advocate, accordingly does not press the present petitions and seeks to file a review application for review of the said order. Giving said liberty to the petitioner and in terms of the aforesaid directions, the present petitions are disposed of as not pressed.”

3.7 This is how we are seized of the matter.

3.8 The charges levelled against the applicant in the charge-sheets dated 22.09.2011, 17.08.2012 and 07.09.2012 are as under:

I Charge sheet dated 22.09.2011

“ARTICLE-I

That the said Shri Suresh Sharma while functioning as Addl. Controller (Admn.) NTRO Hqrs, New Delhi wilfully and unauthorisedly passed on 4 (four) official documents to Shri Pawan Kumar, the then Dy. Director (NGO) who was not authorised to possess these documents.

Thus, Shri Suresh Sharma violated departmental security Instructions- 2005, Rule 3(1) and Rule 11 of the CCS (Conduct) Rules, 1964.

ARTICLE-II

That the said Shri Suresh Sharma while functioning as Addl. Controller (Admn.). NTRO Hqrs, New Delhi connected his official computer having official/classified data to internet, thereby, endangering the safety and security of official documents.

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

Thus, Shri Suresh Sharma contravened provisions of Departmental Security instructions-2005 and Rule 3 (1) of the CCS (Conduct) Rules, 1964.

ARTICLE-III

That the said Shri Suresh Sharma while functioning as Addl. Controller (Admn.). NTRO Hqrs, New Delhi took eleven photographs inside his office room and uploaded the same on the computer connected with internet.

Brining photography instrument and doing photography in NTRO premises is not permitted as per Departmental Security instructions-2005. Thus, Shri Suresh Sharma acted in a manner unbecoming of a Govt. Servant and violated Rule 3 (1) of the CCS (Conduct) Rules, 1965.

ARTICLE-IV

That the said Shri Suresh Sharma while functioning as Addl. Controller (Admn.) NTRO Hqrs, New Delhi connected two USB devices (pen drives) to his official computer HP Computer S.No.INI601021F (Internet connected) and two USB devices (pen drives) to his official computer HP Computer S.No.INA91503Y6 (stand alone) in violation of Departmental Security Instructions-2005 and NTRO security Instructions issued vide letter No.XXII/S&CI/009/05/P-1-3980 dated 13.10.2008.

Thus, Shri Suresh Sharma acted in a manner unbecoming of a Govt. servant, violative of Rule 3 (1) of the CCS (Conduct) Rules, 1964.

ARTICLE-V

That the said Shri Suresh Sharma while functioning as Addl. Controller (Admn.) NTRO Hqrs, New Delhi prior to his departure to Bengaluru on transfer (June, 2010), asked Shri S.S. Bhadauria, AO, Shri Udeesh Kumar, UDC and Smt. Puneeta, Technical Assistant to delete official files/data from their computers. The above acts of Shri Suresh Sharma are prejudicial to the interest of the organisation and are subversive of discipline.

Thus, Shri Suresh Sharma acted in a manner unbecoming of a Govt. servant, showed lack of devotion to duty and integrity, violative Rule 3 (1) of the CCS (Conduct) Rules, 1964.

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

ARTICLE-VI

Shri Suresh Sharma with a view to pressuring Dr. Raju from proceeding further in the inquiry against him wrote a letter dated 25.06.2010 stating, "If any member of my family or I take some drastic step like ending life, YOU WOULD BE SOLELY RESPONSIBLE FOR ABETMENT OF SUICIDE/DRIVING TO SUICIDE."

Thus, Shri Suresh Sharma acted in a manner unbecoming of a Govt. servant, violative of Rule 3 (1) of the CCS (Conduct) Rules, 1964.

ARTICLE-VII

That the said Shri Suresh Sharma while functioning as Addl. Controller (Admn.) NTRO Hqrs, New Delhi asked Shri S.S. Bhadauria, AO, not to cooperate in the inquiry being conducted by Dr.Harshvardhan by proceeding on leave. ShriPawan Kumar did accordingly but Shri S.S.Bhadauria, continued attending office.

II Charge-sheet dated 17.08.2012

"Article-1

That the said Shri Suresh Sharma Additional Controller while functioning as Direct (Estt.) facilitated illegal and irregular appointments of following ineligible persons with ulterior motives/malafides:-

- (i) Shri Praveen Kumar, Scientist 'B'
- (ii) Shri Brij Mohan Singh, Scientist 'B'
- (iii) Shri Amit Kumar Mall, Scientist 'B'
- (iv) Smt. Manju Kumari, Technical, Assistant 'A'
- (v) Shri Subhendushree Routray, Technical Assistant 'A'
- (vi) Shri V.V. ApparaoKiladi, Technical Assistant 'A'
- (vii) Shri Ankush, Technician "a"
- (viii) Shri Jhantu Kr. Maity, Technician 'A'

Thus, Shri Suresh Sharma acted in a manner unbecoming of a Govt. servant, caused financial loss to the Govt. (by facilitating

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

irregular and illegal appointments) and committed grave misconduct in violation of Rule 3 of the CCS (Conduct) Rules, 1964.”

III Charge-sheet dated 07.09.2012

“Article-1

That the said Shri Suresh Sharma Additional Controller while functioning as Direct (Estt.) facilitated illegal and irregular appointments of following persons with ulterior motives/malafide:-

- (i) Shri Vibhav Vikrant, As External Pilot in the Pay Scale of Rs.8,000-13,500/-.
- (ii) Shri Shilesh Kumar Pandey as Observer/Intelligence Interpreter in the Pay scale of Rs.8,000-13,500/- and
- (iii) Shri Diwakar Roy as System Engineer in the Pay scale of Rs.10,000-25,200/- (Revised to Rs.15,600-39,100 with Grade Pay Rs.6600)

Thus Shri Suresh Sharma acted in a manner unbecoming of a Govt. servant, caused financial loss to the Govt. (by facilitating irregular and illegal appointments) and committed grave misconduct in violation of Rule 3 of the CCS (Conduct) Rules, 1964.”

3.9 The main grounds pleaded for by the applicant in support of the prayers in the OAs are as under:

- i) The provisions of Rule 14 of the CCS (CCA) Rules, 1965, which prescribes the procedure for imposing major penalties have not been followed and the Inquiry Officer (IO) has been appointed without examining the reply of the applicant to the impugned charge-sheets, which were not served on him as per Rule 30 of the CCS (CCA) Rules, 1965.

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

ii) The charges contained in the impugned charge-sheets have been cooked up for the reason that the applicant, as a whistle blower, had reported about the corruptions prevailing in the NTRO to the National Security Adviser vide letter dated 07.01.2011.

iii) Neither the IO nor the Presenting Officer (PO) have provided any proof of obtaining distinct approval of the Hon'ble Prime Minister as Minister In-charge for initiating disciplinary proceedings, for approving the charge-sheets and for appointing IO and PO. The DE proceedings are thus *non est* in the eyes of law and hence on the basis of such proceedings the applicant cannot be denied his pensionary benefits, viz. DCRG, commutation of pension, regular pension etc. after he superannuated from the service on 30.06.2014.

3.10 The applicant has challenged the three charge-sheets dated 22.09.2011, 17.08.2012 and 07.09.2012 as well as order dated 01.07.2014 (Annexure A-2) issued by NTRO under the signature of its Deputy Director (Estt.) whereby the major penalty DE proceedings started against the applicant have been ordered to be deemed to be proceedings under Rule 9 (2) (a) of the CCS (Pension) Rules, 1972.

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

4. Pursuant to the notices issued, the respondents entered appearance and filed their reply in all the three OAs. The sum and substance of the averments made in the replies are as under:

i) In 2010, there was a spate of media reports levelling unsubstantiated, vague and scandalous allegations about the functioning of the NTRO. The NTRO is a Premier Techint Organisation actively engaged in the safety and security of the Nation. Such wild allegations in public domain, not only potentially threaten the safety and security of the citizen of India but also result in depletion of Intelligence Sources. In addition, such allegations also make enemy countries aware of our capability which is not in national interest.

ii) The Comptroller and Auditor General (CAG) in its Special Audit Report (Secret) found irregularities in certain recruitments made in NTRO and recommended to take appropriate action in the matter. The applicant was found, *prima facie*, responsible for these irregular appointments.

iii) With the approval of the Hon'ble Prime Minister as Minister in-charge three charge-sheets dated 22.09.2011, 17.08.2012 and 07.09.2012 were issued. The charge-sheets were sent to the

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

applicant through his Controlling Officer (CD, CMMS). Since the applicant was on leave, the charge-sheets dated 22.09.2011 and 07.09.2012 were sent to the applicant by registered post at his leave address, which he had received. The third charge-sheet dated 17.08.2012 was served upon the applicant by his controlling authority, i.e., CO (CD, CMMS).

iv) The applicant returned the charge-sheets dated 22.09.2011 and 07.09.2012. The contention of applicant in returning the charge-sheet dated 07.09.2012 (opened envelope) was that it was not served as per Rule 30 of the CCS (CCA) Rules, 1965. With regard to the charge-sheet dated 22.09.2011, the applicant vide his letter dated 03.01.2012 denied all the articles of charges and also requested for supply of documents listed to effectively defend his case. In regard to the third charge-sheet dated 17.08.2012, the applicant vide his letter dated 25.09.2012 requested for supply of the documents mentioned in Annexure-III of the charge-sheet to him to facilitate him in submitting his proper written statement of defence. The listed documents were provided to him vide Memo dated 26.09.2012. However, the charged officer (applicant) on 09.10.2012 returned the charge-sheet but retained its enclosures.

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

v) Since the applicant did not submit his defence statements within the stipulated period as indicated in the charge-sheets, with the approval of the Competent Authority, the IO and PO were appointed and DE proceedings were set in motion.

vi) The Hon'ble Apex Court in **Union of India & Others v. Upendra Singh**, [1994 (27) ATC 200], have observed that *the High Court or Administrative Tribunal may not interfere in the disciplinary proceedings and that the truth or otherwise of the charges is a matter for the disciplinary authority to go into.*

vii) In SLP (C) No.21289/2011 (**Shri V.K. Mittal v. UOI**), the petitioner therein had stated that NTRO had not taken any action on the irregularities pointed out by the CAG in its Special Audit Report. On the direction of the Hon'ble Supreme Court, NTRO submitted a status report in which it was mentioned that the applicant along with some other officials was responsible for the irregular appointments and that DE proceedings had been started against the erring officials and that the services of the irregularly appointed persons had since been dispensed with. The Hon'ble Apex Court after going through the status report disposed of the said SLP vide order dated 11.12.2012 with the following observation:

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

“after going through the status reports, we are fully satisfied that the respondent organisation (NTRO) is taking all the necessary steps, to correct the mistakes/irregularities pointed out by the CAG in its report. Therefore, in our opinion, it may not be necessary for this Court to further monitor this case.”

viii) The applicant had filed OA No.464/2013 praying therein to quash and set aside the impugned charge-sheets dated 17.08.2012 and 07.09.2012, which was disposed of vide order dated 26.11.2013 with the following observation:

“4. Today, the learned counsel for the respondents has produced the relevant file in which the aforesaid two memoranda have been issued. It is seen from it that they were issued not only after the approval of the competent authority but they are also on different set of charges which are not consequential to each other.

5. In view of the above position, agreeing with the submissions of the learned counsel for the Respondents, this OA is closed with liberty to the applicant to file separate OAs, if so advised.”

ix) This Hon’ble Tribunal in its interim order dated 09.09.2014 declining grant of any interim relief to the applicant has observed as under:

“We are satisfied that the initiation of the departmental proceedings as well as the charge sheet have been approved by the competent authority, namely the Prime Minister in the capacity of disciplinary authority.”

x) Since the DE proceedings in relation to the three charge-sheets issued to the applicant were started when the applicant was in service, therefore, vide the impugned order dated 01.07.2014, it

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

is declared that DE proceedings shall be deemed to have been continued under Rule 9 (2) (a) of the CCS (Pension) Rules, 1972. These DE proceedings thus are to be continued and concluded by the authority by which they were commenced in the same manner as if the applicant had continued in service.

xi) The applicant has been indulging into the dilatory tactics to thwart smooth conduct of the DE proceedings against him and hence all the three OAs deserve to be dismissed.

5. The arguments of the learned counsel for the parties were heard on 15.02.2017.

6. The factual matrix of the three OAs are not in dispute. The issues that emerge for our consideration are as under:

a) Whether the charge-sheets served on the applicant are not in accordance with Rule 30 of the CCS (CCA) Rules, 1965 and hence these charge-sheets are *non-est* in the eyes of law?

b) Whether the approval of the competent authority (Hon'ble Prime Minister as Minister In-charge) was obtained at the crucial stages of the DE proceedings viz. for initiating the DE proceedings, for issuing the charge-sheets and for appointing the IO and PO?

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

c) Whether the action of the respondents in appointing IO and PO without considering the defence statements of the applicant to the charge-sheets was illegal?

d) Whether on the day of his retirement on 30.06.2014, there were no legally valid charge-sheets served to the applicant and as such, the impugned order dated 01.07.2014 terming the DE proceedings to be deemed proceedings under Rule 9 (2) (a) of the CCS (Pension) Rules, 1972, is illegal in the eyes of law and hence the applicant is entitled to grant of regular pension and release of all his other retiral benefits?

7. Adverting to the issue of service of the charge-sheets on the applicants, we would like to refer to Rule 30 of the CCS (CCA0 Rules, 1965, which reads as under:

“Rule 30: Every order, notice and other process made or issued under these rules shall be served in person on the Government servant concerned or communicated to him by registered post.”

8. We find from the records that all the three charge-sheets were initially attempted to be served on the applicant through his Controlling Authority, i.e., CO (CD, CMMS). The charge-sheet dated 07.09.2012 indeed was served on him through his controlling authority. The other two charge-sheets were served on him by

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

registered post. It is borne from the records that the applicant had returned these two charge-sheets. This action of the applicant itself stands as a convincing evidence that these two charge-sheets were also served to the applicant. The mode of service of the charge-sheet through registered post is also prescribed under Rule 30 of the CCS (CCA) Rules. Hence, our answer to the issue at Para 5 (a) is in negative.

9. In regard to the approval of the competent authority (Hon'ble Prime Minister as Minister In-charge) for initiation of DE proceedings, issuance of the charge-sheets, there is a judicial finding of this Tribunal in its order dated 26.11.2013 in OA-464/2013 filed by the present applicant, which reads as under:

"4. Today, the learned counsel for the respondents has produced the relevant file in which the aforesaid two memoranda have been issued. It is seen from it that they were issued not only after the approval of the competent authority but they are also on different set of charges which are not consequential to each other."

10. The Tribunal had directed the respondents to produce the original records to ascertain as to the approval of the competent authority at the crucial stages of the DE proceedings vide order dated 16.11.2016. Accordingly respondents produced the original records. After perusal of two original records on 15.02.2017, we are

satisfied that approval of the competent authority (Hon'ble Prime Minister as Minister In-charge) had been obtained at all the crucial stages of the DE proceedings in all the three charge-sheets. Therefore, we answer the issue at Para 5 (b) in affirmative.

11. As borne out by the original records that were perused by us, the applicant had failed to exercise his right of filing defence statements within the stipulated time period prescribed in the charge-sheets, as such we do not find any illegality in the action of the respondents to proceed ahead with the DE proceedings by way of appointing IO and PO. Hence, we answer the issue at Para 5 (c) in negative.

12. As regards continuing of the DE proceedings in terms of Rule 9 (2) (a) of the CCS (Pension) Rules, 1972, as observed in the previous paras, all the three charge-sheets were issued to the applicant in a legally prescribed manner while he was still in service and as such continuance of the DE proceedings under Rule 9 (2) (a) of the CCS (Pension) Rules, 1972, is absolutely in order. Thus, we answer the issue at Para 5 (d) in negative.

13. From the records it is quite apparent that the applicant has been indulging into delay and dilatory tactics to sabotage the

(O.A. No.3037/2014
M.A. No.1093/2015
M.A. No.2856/2015
with
O.A. No.3061/2014
O.A. No.3087/2014
M.A. No.1096/2016
M.A. No.3282/2014)

ongoing DE proceedings against him by way of indulging into frivolous litigations. Such an action of the applicant is deprecatory and distasteful. He should subject himself to the majesty of law, face the DE proceedings and allow the law to take its course.

14. In the conspectus of the discussions in the foregoing paras, all the three OAs are dismissed, as they have been found to be devoid of any substance and merit. The respondents are directed to complete the ongoing DE proceedings within a period of 04 months from the date of receipt of a certified copy of this order. The applicant is also directed to cooperate fully in the conduct of the DE proceedings.

15. No order as to costs.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

‘San.’