

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A. No. 4461/2015

New Delhi, this the 13th day of January, 2016

Hon'ble Mr. Justice B. P. Katakey, Member (J)
Hon'ble Shri K. N. Shrivastava, Member (A)

Altamash Ali (aged about 44 years)
S/o Ali Ashraf
R/o Block C, Flat No. 11/6,
Green Tower, Golf Green,
Kolkata – 700 095.

...Applicant

(By Advocate : Mr. Zartab Anwar with Mr. Sanjeev Joshi)

Versus

1. The Secretary,
Government of India,
Ministry of Labour and Employment,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi - 110 001.
2. The Chairman,
Central Board of Trustees (CBT),
Employees Provident Fund Organisation,
Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi-110 066.

....Respondents

(By Advocate : Ms. Aparna Bhat)

O R D E R (O R A L)

Hon'ble Mr. Justice B. P. Katakey, Member (J)

The applicant has filed this present O.A challenging the charge memo dated 06.05.2015 issued by the Central Provident Fund Commissioner on the ground that the approval of the Chairman, Central Board of Trustees (CBT), the disciplinary authority, has not been taken to

the charges levelled against the applicant vide the said charge memo dated 06.05.2015.

2. This Tribunal though vide order dated 04.01.2016 fixed the case on 12.01.2016 and thereafter vide order dated 12.01.2016 fixed today for consideration of interim prayer, as agreed to by the learned counsel for the parties, the O.A is taken up for disposal today itself instead of considering the prayer for interim order, as it has been contended by the learned counsel for the parties that the issue which has been raised in the present O.A is relating to the absence of approval of the proposed charges by the Chairman, CBT, before the issuance of the charge memo dated 06.05.2015.

3. The learned counsel appearing for the applicant referring to the averments made in the O.A as well as the averments in the counter filed by the respondents more particularly, the office note dated 23.02.2015, submitted for consideration of the Chairman, CBT and seeking his approval, has submitted that since the charges levelled against the applicant vide the aforesaid charge memo have not been placed before the Chairman, CBT, mere signing in token of approval of the said note does not amount to the approval required to be granted by the disciplinary authority i.e., the Chairman, CBT. According to the learned counsel, in any case, there is total non-application of mind on the part of the Chairman, CBT, in granting approval as all the materials, as is evident from the aforesaid note dated 23.02.2015, were not placed before the

Chairman, CBT, for consideration, before issuance of the impugned charge memo. The learned counsel in support of his contention has also placed reliance on the order dated 28.01.2015 passed by this Tribunal in O.A No. 4107/2012 **(S. A. A. Abbasi Vs. Chairman, Central Board of Trustees & Ors.)**, wherein the second charge memo issued to the applicant therein has been set aside on the ground of granting approval without application of mind by the disciplinary authority.

4. The learned counsel appearing for the respondents on the other hand referring the averments made in the reply filed as well as referring to the records of initiation of the disciplinary proceedings against the applicant has submitted that it is evident from the aforesaid note dated 23.02.2015 submitted to the Chairman, CBT, that all the material facts were placed before him including the charges, which were levelled against the applicant by issuing the impugned charge memo and hence it cannot be said that all the material facts were not placed before the disciplinary authority, while seeking approval. It has also been submitted that it cannot be presumed that the disciplinary authority did not go through the entire note dated 23.02.2015 and also the documents referred therein as well as the contents of the charges levelled against the applicant, so as to suggest non-application of mind on the part of the disciplinary authority. The learned counsel submits that since the record reveals that the disciplinary authority i.e., the Chairman, CBT, has approved the note dated 23.02.2015 on 17.03.2015, the approval has been granted for

issuance of the charge memo which has been put to challenge in the present O.A. The learned counsel has also submitted that the decision rendered by this Tribunal in **S. S. A. Abbasi (Supra)** in the facts and circumstances of this case cannot be applied.

5. We have considered the submissions advanced by the learned counsel for the parties and also perused the pleadings including the annexure appended thereto. We have also perused the records produced by the learned counsel for the respondents relating to the initiation of the disciplinary proceedings against the applicant vide the impugned charge memo dated 06.05.2015.

6. It appears from the note dated 23.02.2015 submitted before the disciplinary authority i.e., the Chairman, CBT, seeking his approval, that all the relevant facts which includes the initial issuance of earlier charge memo dated 03.08.2010, setting aside the same by this Tribunal giving liberty to initiate a fresh charge memo after obtaining the approval from the competent authority, the proposed charges were placed before the disciplinary authority i.e., Chairman, CBT. It also appears from the said note as well as the records produced before this Tribunal that all those material papers including the charges proposed to be framed against the applicant including the allegations were placed before the Chairman, CBT, who is the disciplinary authority. The Chairman, CBT who was the disciplinary authority on 17.03.2015 has approved the initiation of the charge memo against the applicant. It cannot be presumed that the

disciplinary authority did not properly go through the aforesaid note dated 23.02.2015 as well as the relevant materials including the charges proposed to be framed against the applicant. Putting the signature by the disciplinary authority approving the issuance of the charge memo indicates the application of mind to all relevant facts including the charges proposed to be framed against the applicant.

7. The decision of this Tribunal in **S. A. A. Abbasi** is not applicable in the case in hand as in that case the Tribunal having gone through the relevant records has recorded the finding of fact relating to the non-application of mind to the relevant materials by the disciplinary authority before the issuance of the charge memo, which is not the case in hand.

8. In view of what have been discussed above, we do not find any merit in the O.A. Hence, it is dismissed. No costs.

(K. N. Shrivastava)
Member (A)

(Justice B.P. Katakey)
Member (J)

/Mbt/