

**Central Administrative Tribunal
Principal Bench**

**OA No.1304/2017
OA No.3689/2017**

Reserved on : 07.09.2018
Pronounced on : 18.09.2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

1. OA No.1304/2017.

Dr. S. Guruprasad
Outstanding Scientist/Scientist 'H'
S/o late Sh. M. Siddalingappa
R/o House No.D-6, 6th Floor,
Tower-9, New Moti Bagh,
New Delhi 110 021.

Aged about 57 years
Group 'A'
Chief Controller R & D (PC & SI)
(Production Coordination and Services Integration)
In Defenced Research and Development Organisation
DRDO Bhawan, Raja Ji Marg,
New Delhi 110 011. Applicant.

(By Advocate : Shri Sourabh Ahuja)

Vs.

1. Union of India
Through its Secretary
Ministry of Defence
Room No.101-A, South Block,
New Delhi 110 011.
2. Department of Defence Research & Development
Ministry of Defence,
Through its Secretary
Chairman, DRDO,
DRDO Bhawan, Rajaji Marg,
New Delhi 110 011.
3. Raksha Mantri (Disciplinary Authority)
Ministry of Defence

Government of India,
Room No.104,
South Block,
New Delhi 110 001.

4. Dr. S. Christopher
Secretary
Department of Defence Research & Development
DRDO Bhawan, Rajaji Marg,
New Delhi 110 011. ... Respondents.

(By Advocates : Shri Gyanendra Singh and Shri Rajeev Kumar)

2. OA No.3689/2017.

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Outstanding Scientist/Scientist 'H'
S/o late Sh. M. Siddalingappa
R/o House No.D-6, 6th Floor,
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New Delhi 110 021.

Aged about 57 years
presently working as
Director General (PC &SI)/Chief Controller R & D (PC & SI)
(Production Coordination and Services Integration)
In Defenced Research and Development Organisation
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DRDO Bhawan, Rajaji Marg,
New Delhi 110 011.

3. Raksha Mantri (Disciplinary Authority)
Ministry of Defence
Government of India,
Room No.104,
South Block,
New Delhi 110 001.
4. Recruitment & Assessment Centre (RAC)
Through its Chairman/Secretary
Defence Research & Development Organisation
Lucknow Road, Timarpur,
Delhi 110 054.
5. Dr. S. Christopher
Secretary
Department of Defence Research & Development
DRDO Bhawan, Rajaji Marg,
New Delhi 110 011.
6. Dr. P. Sivakumar
7. Dr. S. K. Mishra
8. Dr. MVKV Prasad
9. Dr. Manjit Singh
10. Ms. J. Manjula
11. Dr. KM Rajan
12. Dr. (Ms) Shashi Bala Singh
13. Mr. Mohamad Hazifur Rehman
14. Dr. SC Sethi
15. Dr. (Ms) Chitra Rajagopal
16. Dr. Dasarath Ram
17. Dr. Kamat Samir V
18. Dr. (Ms.) Tessy Thomas
19. Dr. RK Sharma
20. Sh. Easwaran MS

21. Sh. Mehta PK ... Respondents.

Respondents No.6 to 21 has to be served through Respondent No.2.

(By Advocates : Shri Gyanendra Singh and Shri Rajeev Kumar)

: O R D E R :

Justice L. Narasimha Reddy, Chairman:

The applicant was initially appointed as Scientist 'B' in the Department of Defence Research and Development Organization, Ministry of Defence on 13.11.1986. Thereafter, he was promoted to the post of Scientist 'C', Scientist 'D', Scientist 'E', Scientist 'F', Scientist 'G' and Scientist 'H' by 02.08.2012. Since the year 2012, the applicant was working as Lab Director of R&DE (Engineers) Alandi Road, Pune.

2. It is stated that the Scientific Advisor to Raksha Mantri (SA to RM) who visited the establishment at Pune was approached by the administration of Alandi Temple to provide certain facilities to the Rath (Divine Chariot) under the corporate responsibility of the organization and he, in turn, has directed the applicant to develop the "Steerable Electrically Driven Chassis for low speed mobility". The applicant states that the Chassis was accordingly developed, and all the work and decorative items for it were supplied by the devotees and donors, and that no public

fund has been utilized for the entire project, and certain amount was incurred from “Build-up (Revenue)” duly following the prescribed procedure. It is also stated that the work was undertaken to enhance the competence of the establishment and to gain confidence to take up futuristic task.

3. A Scientist in the same organization, by name, D. Muthuraj is said to have submitted a complaint alleging that huge funds of the organization were utilized for private works under the leadership of the applicant. A Public Interest Litigation (PIL) was filed in the Bombay High Court. The respondents have opposed the same by stating that no public funds were utilized therein.

4. However, at a later stage, the respondents issued a Memorandum dated 30.09.2016 initiating disciplinary proceedings against the applicant. It was alleged that the applicant, while functioning as Director, R & DE, failed to comply with the well established procedures for sanction and execution of the Project, and wrongfully projected the expenditure incurred for development of “Steerable Electrically driven chassis” for the Temple as part of Corporate Social Responsibility (CSR) in contravention of the existing government policy. The same is challenged in OA No.1304/2017.

5. The applicant contends that it was only on the directions issued by the SA to RM, that the project was undertaken with the objective of bringing about innovative technology and prototype, which will be useful for future projects, and when a PIL was filed in this behalf before the Bombay High Court, the respondents have opposed the writ petition, stating that no illegality has taken place. He further contends that even the Fact Finding Committee that was appointed for this purpose, did not point out any illegality, and still the Memorandum was issued at a stage when he was expecting promotion and designation as Outstanding Scientist. Other factual and legal contentions are urged.

6. On behalf of the respondents, a detailed counter affidavit is filed. It is stated that though the allegations leveled by Shri Muthuraj were found to be incorrect, in the subsequent verification of the matter, it was found that the work undertaken by the applicant cannot be treated as a part of CSR. It is also stated that any objection to the allegation can be considered in the departmental enquiry.

7. In view of the pendency of the disciplinary proceedings, the case of the applicant was not considered for promotion to the grade of Distinguished Scientist. The applicant has filed OA No.3689/2017 with a prayer to call

for the records pertaining to the Peer Review Committee (2015, 2016 & 2017) in pursuance of which the juniors of the applicant were promoted to the grade of Distinguished Scientist, and to quash the orders dated 25.04.2017, 11.09.2015, 26.10.2016 and 30.08.2017 whereby juniors to him were promoted to the said grade. Consequential relief to promote him to the grade of Distinguished Scientist is also sought for. It is also prayed that the respondents be directed to conduct the Peer Review Committee, excluding respondent No.5 in the OA, for consideration of the name of the applicant to the grade of Distinguished Scientist for the years referred to above. The applicant contends that though he was found otherwise suitable, he was not promoted to the grade of Distinguished Scientist because of the pendency of the disciplinary proceedings.

8. The respondents filed counter affidavit in that OA also. The facts mentioned in their counter affidavit filed in OA No.1304/2017 are repeated and it is stated that for certain years, the case of the applicant was considered but result thereof was kept in sealed cover.

9. We heard Shri Sourabh Ahuja, learned counsel for the applicant, and Shri Gyanendra Singh and Shri Rajeev Kumar, learned counsel for the respondents.

10. The record discloses that the career of the applicant from Scientist 'B' to Scientist 'H' progressed without any hurdle, and in relatively fast manner. He headed the R&DE (E) at Pune. The Organisation developed a Chassis for the benefit of a local Temple, on the instructions issued by the SA to RM, as part of CSR. One of the Scientists did not relish this and has also filed PIL. The administration supported this and even the Fact Finding Committee did not find anything wrong. It appears that someone did not like the issue to lie down. The Memorandum issued to the applicant does not contain any Articles of Charge as such. The statement of imputation of misconduct or misbehavior alleged against him reads as under:-

"Statement of Imputation of Misconduct or Misbehaviour against Dr. S. Guruprasad, Scientist 'H' (Director, R & DE (E), Pune), now CCR&D (PC & SI), DRDO HQ.

Dr. S. Guruprasad, Scientist 'H' while functioning as Director, R & DE (E), Pune, was instrumental in the development of an electronically driven chassis at R & DE (E) for Saint Dnyaneshwar Temple, Alandi, Pune, without seeking approval of the competent authority and by disregarding established Govt procedures.

2. A Fact Finding Committee was ordered to submit a factual report in this case. The Committee in its Report dated 05.09.2014 has opined that the High Tech Rath Developed by R & DE (E) for Alandi Temple, Pune was part of R & D activities of the Lab for realizing advanced technology under Corporate Social Responsibility (CSR) task assigned to it by the then SA to RM, which otherwise also would have been useful for futuristic tasks of R & DE (E). As per records

available, a total of Rs.17.60 lakhs were incurred for development of electrically driven system.

3. Dr. S. Guruprasad in his version has stated that the task for development of high tech chariot (Rath) for Alandi Temple, Pune under CSR was taken up on the direction of the then SA to RM as an opportunity to develop new technologies and processes which will be useful for futuristic tasks of R&DE (E). The amount of Rs.17.60 lakhs + taxes spent in this task is under delegated powers of Lab Director (who is also CFA). The source of fund was 'Buildup (Revenue)' under the power of Lab Director. The above expenditure was incurred for development of "Steerable Electrically driven chassis for low speed mobility' only, and no expenditure has been incurred for decoration/designing of the chariot. All decorative items of the chariot were donated by the devotee donors.

4. DRDO have confirmed that as per records available with them, they are not obliged/authorized to spent public funds on Corporate Social Responsibility (CSR) and that there is no precedent of fulfilling this responsibility.

5. From the above, it is evident that Dr. S. Guruprasad Scientist 'H', while functioning as Director R & DE (E), failed to comply with well established procedures for sanction and execution of project and wrongfully projected the expenditure incurred for development of 'Steerable Electrically driven chassis' for the temple as part of Corporate Social Responsibility (CSR) in contravention of existing Govt. policy. By the above acts, the officer has committed an act unbecoming of a Govt. servant and has violated the provisions of Rule 3 (1) (iii) of the CCS (Conduct) Rules, 1964."

The only allegation against the applicant is that he incurred expenditure for development of "Steerable Electrically Driven Chassis for temple as part of the corporate social responsibility". In case, the applicant has done this on his own accord, the question as to whether he

is liable to be proceeded needs to be examined in the disciplinary enquiry. However, if he has just complied with the directions issued by his superior in the Ministry, and the same is borne out by record, the applicant cannot be subjected to disciplinary proceedings, and, particularly, at a time when he is about to reach peak of his career. In this regard, we cannot transgress the principle that a Court or Tribunal can interfere with a charge memo if only it cannot be sustained, even when the facts admitted by the respondents, and borne out by record are taken on face value.

11. A reading of Paras 2 & 3 of the Memorandum would disclose the circumstances under which the work of designing and manufacturing for the Chassis was taken up. It was clearly mentioned in para 2 that the Fact Finding Committee, in its report dated 05.09.2014, opined that the work referred to above was taken up as part of research and development activities of the lab for realizing advanced technology under CSR task assigned to it by the then SA to RM. It was also mentioned that the work would be useful for futuristic tasks of R&D (E). Though the whistle blower, Muthuraj, alleged that a sum of Rs. 2 crores has been spent for this, the Committee found that Rs.17.60 lacs were incurred. In para 3, it was mentioned

that the funds were from the “Build-up Revenue” which are within the powers of Lab Director, and not from any public funds.

12. It is only a perception change or dislike towards the applicant, on the part of someone that led to the issuance of the Memorandum. It was not even mentioned that who has taken the view that the work cannot be taken up under CSR, and whether the direction issued by the SA to RM was wrong. No reference was made to any principles governing CSR or any audit objection. It was not denied that the organization has been taking up works under CSR.

13. The counter affidavit filed by the respondents is very elaborative in its content. In para 4 of the counter affidavit, it is stated as under:-

“4. That a fact Finding Committee was ordered to submit a factual report in this case. The Committee submitted report dated 05.09.2014. The FFIC observed that it appears that R & DE (E) has implemented the CSR task assigned to it by SA to RM to motivate the accelerate build-up/development of new technology/process and realize prototype incorporating new ideas, which otherwise would have been done. It appears that Rs.2.5 Crore Government funds was not utilized for developing a High Tech Rat. Only Rs.17.6 lakh spent for Electrical Drive System as per records available. The cost mentioned in public forums appears to be imaginary. The FFIC finally concluded that ‘the High Tech Rath developed by R & DE (Eng) for Alandi Temple was part of R & D activities of the Lab for realizing advanced technology under Corporate Social Responsibility (CSR) of DRDO.”

As regards the complaints submitted by Shri Muthu Raj, the respondents stated as under:

“It is submitted that Shri D. Muthuraj submitted complaints to CVC; wherein he alleged that corruption is being made by the officers of R & DE (E) including Shri Guruprasad (applicant of present OA). When the complaints were under investigation by the competent authority, he filed a Writ Petition No.9071/2014 before the Hon’ble High Court Mumbai; wherein he made CVC & UOI as parties and prayed therein to direct the respondent to decide the complaint No.3796/2010 and 4830/2010 which was filed on 20.7.2012 & 14.9.2012 and thereby submit the report within a period of one month; decide redressal application made with it after petitioner getting victimized; and to direct to held a through enquiry for misusing of defence fund for civil works as well as religious activities by Dr. S. Guruprasad and submit detailed report within a period of one month. It was observed by the UOI that the allegation of such corruption leveled by Shri Muthuraj is incorrect. Therefore, the caser was defended by UOI. After investigation it was observed by the competent authority that the allegation of corruption leveled by Shri Muthurajj was wrong, but, had some procedural irregularities. Therefore, disciplinary proceedings for minor penalty for such procedural irregularities have been initiated against Shri Guruprasad nuy the impugned charged memorandum.

Explaining the circumstances under which the work of manufacture was taken up, the counter affidavit stated as under:-

“But, from the noting dated 02 July 2012 initiated by Shri SA Katti, Sc. ‘F’ brings out that “when the old charioit was taken on 14 Jun 2012 for continuation of further wari, the committee requested the then SA to RM Dr. VK Saraswat during visit to R &DE (Engrs) for NCCM 2012 conference to help the Alandi Samasthan Committee in getting a scientific chariot. The then SA to RM asked the applicant i.e. Director R & DE (E) to develop a high tech Rath for the Alandi Temple for fulfillment of CSR of DRDO. The subsequent noting

signed by the then SA to RM dated 02 July 2012 brings out that "This task will be used to build up certain technologies/processes which will be used as components of rath." This signifies that the applicant has acted pursuant to the directions issued by the superior officers."

At a subsequent stage, it is mentioned that on examination of the record, it was observed that the DRDO is not obliged/authorized to spend public funds on CSR, and there is no precedents of fulfilling this responsibility. However, the counter affidavit is blissfully silent as to who has taken this opinion, and whether the note made by SA to RM was overruled by any superior authority. The main imputation against the applicant is contained only in para 5 of the Memorandum dated 30.09.2016. If that is examined vis-à-vis, the contents of the counter affidavit, which have been extracted above, the imputation itself becomes totally untenable.

14. The applicant headed one of the most sensitive Defence Organizations, for quite a long time, and reached the stage of Scientist 'H'. In case, he did not oblige the directives of the SA to RM, it would have been a case of insubordination. The respondents themselves defended the applicant, when a baseless allegation was made by one of the Scientists of their organization in the Bombay High Court. After the entire dust was settled after the verification by the Fact Finding Committee, the charge memo was

issued on the basis of the so called change of perception of some unknown and invisible person in the organization.

15. We do not find any basis for the charge memo, and it cannot be sustained when examined with reference to the contents of the counter affidavit, not to speak of a portion of the charge memo itself.

16. The denial of promotion to the applicant to the grade of Distinguished Scientist was on account of pendency of disciplinary proceedings.

17. Learned standing counsel for the respondents has made available the copies of the Minutes of the Peer Committee Meeting held on 12.04.2017 that considered the cases for promotion to the grade of Distinguished Scientist for various years. The Minutes and other connected records disclose that the cases of the applicant and some others were deferred till the vigilance clearances were obtained, and results of those Scientists were kept in sealed cover for certain other years. The counter affidavit is silent as to for which years the sealed cover procedure was adopted, and for which years, not.

18. Since the Memorandum was issued to the applicant on 30.09.2016, the selections that have taken place to the grade of Distinguished Scientist, the case of the applicant

needs to be considered with reference to every selection that has taken place thereafter. In case, the sealed cover procedure was adopted, it needs to be opened, and if it is not adopted, a review Peer Committee needs to be constituted, and consequential benefits need to be extended to the applicant depending on the outcome of the disciplinary proceedings. Though a prayer is made for exclusion of respondent No.5 from the Committee, we do not feel that necessity at this stage. There is no reason to believe that the administration does not address the concern of one of its senior most Scientists.

19. In the result,

(1) O.A. No.1304/2017 is allowed and the charge memo dated 30.09.2016 issued to the applicant is set aside.

(2) O.A. No.3689/2017 is allowed, directing that, if the case of the applicant was considered for promotion to the grade of Distinguished Scientist, subsequent to the selections that took place after 30.09.2016, and the result is put in the sealed cover, the same shall be opened. If in any particular year thereafter, the case of the applicant was not considered, a Review Peer Committee shall be constituted for consideration of the case of the applicant for promotion to the grade of

Distinguished Scientist. In case, he is found fit to be promoted, he shall take seniority from the date on which his juniors were promoted to that grade, and shall be extended consequential benefits.

There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/