

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.2107/2017

Reserved on : 07.09.2018
Pronounced on : 15.10.2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Rajeev Shrivastava S/o late O. P. Shrivastava,
Defence Estates Officer
(Indian Defence Estates Service),
Jabalpur Circle, Near Defence Cinema,
Jabalpur Cantt. (MP)-482001. ... Applicant

(By Mr. Santosh Kumar and Mr. R. Balasubramanian,
Advocates)

Versus

1. Union of India through Secretary,
Ministry of Defence,
South Block,
New Delhi-110011.
2. Shri Balsharan Singh, aged 63 years,
Father's name not known to applicant,
Residing at 4075, Sector-B,
Pocket 5&6 Sector, Vasant Kunj,
New Delhi-110070. ... Respondents

(By Mr. Rajive R. Raj, Advocate)

O R D E R

Justice L. Narasimha Reddy, Chairman :

The applicant is a Group 'A' officer of 1989 batch of the Indian Defence Estates Service. He filed this OA challenging

the charge memorandum dated 21.02.2011. In the impugned charge memorandum, it was alleged that the applicant had unauthorisedly obtained notings of the Ministry of Defence confidential file No.5(15)/09-D(Lab) and reproduced them in the written brief and rejoinder filed in OA No.01/2010 on the file of the Bangalore Bench of the Tribunal.

2. The applicant has narrated various events pertaining to his service, and stated that on account of the fact that the second respondent had a grudge against him, several rounds of disciplinary proceedings were initiated against him, and in all of them, he emerged successful. He contends that the impugned charge memorandum is issued in relation to the pleadings that are part of the record in OA No.01/2010 on the file of the Bangalore Bench, and initiation of disciplinary proceedings in relation thereto is not permissible in law. It is alleged that the charge memorandum is issued with *mala fide* intention, and is the result of the grudge borne by the second respondent against him.

3. The respondents filed counter affidavit opposing the OA.

4. We heard Shri Santosh Kumar and Shri R. Balasubramanian, learned counsel for the applicant, and Shri Rajive R. Raj, learned counsel for the respondents.

5. The applicant has referred to nearly half a dozen OAs filed by him at one stage or the other, in relation to various proceedings that were initiated against him. It is also a matter of record that he was successful in almost all the OAs filed by him.

6. In the instant case, the articles of charge read as under:

"ARTICLE OF CHARGE-I"

Shri Rajeev Shrivastava, ex-DEO Karnataka & Goa Circle, Bangalore now under suspension has unauthorisedly obtained notings of the Ministry of Defence confidential file No.5(15)/09-D(Lab) whereas he was not supposed to or authorized to have access to the said file or notings therein and in whose possession these have evidently come unauthorisedly.

By this act of omissions, he has failed to maintain absolute integrity, exhibited conduct unbecoming of a Government servant in violation of Rule 3(1)(i), 3(1)(iii) and Rule 11 of CCS (Conduct) Rules, 1964.

"ARTICLE OF CHARGE-II"

Shri Rajeev Shrivastava, ex-DEO Karnataka & Goa Circle, Bangalore now under suspension

has unauthorisedly produced/communicated the notings of the Ministry of Defence confidential file No.5(15)/09-D(Lab) in the Written Brief and Rejoinder filed by him in OA No.01/2010 titled as Rajeev ShrivastavaVs. Union of India and others filed by him in Central Administrative Tribunal, Bangalore Bench, Bangalore.

By this act of omissions, he has failed to maintain absolute integrity, exhibited conduct unbecoming of a Government servant in violation of Rule 3(1)(i), 3(1)(iii) and Rule 11 of CCS (Conduct) Rules, 1964."

The truth or otherwise of the allegations contained therein can be established only in the course of the inquiry. Though extensive reliance is placed upon rule 11 of the CCS (Conduct) Rules, 1964, we desist from dealing with the same in detail, lest a final view is expressed, before the inquiry is conducted. The occasion to interfere with the charge memorandum would arise, if only it was issued by an authority not vested with the power, or when no misconduct can be said to have been established, even if the contents of the charge are taken as true. None of these two grounds apply to the facts of the present case. If the applicant has a source to obtain the notings in the confidential file, he can mention the same in his explanation. We cannot undertake an adjudication into that aspect at this stage. Further, the applicant has already submitted his reply on

20.06.2011. That needs to be taken into account in the course of the inquiry.

7. Though reliance is placed upon certain rulings of various Courts, we are of the view that the occasion to apply those principles would arise if only the applicant takes a plea in the disciplinary proceedings that the same is not accepted.

8. We, therefore, dismiss the OA. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/as/