

**Central Administrative Tribunal
Principal Bench**

OA No.2659/2014

New Delhi, this the 11th day of October, 2018

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

D. K. Srivastava
S/o Shri M. S. Srivastava
aged 56 years,
Ex-Law Officer,
R/o 360, Nyay Khand 3,
Indirapuram,
Ghaziabad.

... Applicant.

(Applicant in person)

Versus

1. Housing and Urban Development Corporation Ltd.
(HUDCO) through its Chairman and
Managing Director.
 2. Shri K. L. Dhingra
Managing Director.
 3. Shri T. Prabhakaran,
Managing Director/Director Finance.
 4. Shri Vivek Kumar
Executive Director
 5. Shri Manoj Mathur
 6. Shri P. K. Mohanty,
Managing Director.
 7. Shri V. P. Baligar
Managing Director
- Respondents.

Address of Respondent Nos.1 to 7:

c/o Housing & Urban Development Corporation Ltd.
(HUDCO House), Indian Habitat Centre, Lodhi Road,
New Delhi.

(By Advocates : Shri Sonal Kumar Singh with Shri Ritesh
Sharma)

: O R D E R (ORAL) :

Justice L. Narasimha Reddy, Chairman:

This OA depicts as to how, and what legal practitioner should not be, and discloses as to how the applicant who was supposed to advise and guide the Housing and Urban Development Corporation (for short, HUDCO), the 1st respondent herein, became the subject matter of litigation, requiring the HUDCO to defend themselves almost in a desperate manner.

2. The applicant was appointed as a Law Officer in the HUDCO on 17.01.1990. On the basis of two complaints, submitted by his wife, two criminal cases were registered against him, and he was arrested in the year 1998. As a consequence thereof, he was placed under suspension. He is said to have been released on bail on 13.04.1998.

3. It is stated that the applicant was once again arrested and released on bail in 2003. A charge sheet was issued to him on 12.10.2010 alleging that he filed a false complaint/FIR No.318/201 against the Chief Managing Director, Director Finance, Executive Director, Deputy Chief Manager, Regional Chief Manager, etc., of the organization at Jaipur alleging that they demanded bribe from him for releasing his arrears of salary, and that the

case was closed by concerned investigating agency. The applicant did not submit any explanation to that, nor did he participate in the inquiry. The Inquiry Officer submitted a report holding that the charge is proved. Taking the same into account, the Disciplinary Authority passed an order dated 29.09.2011 dismissing the applicant from service. Challenging the same, he filed an appeal before the Chief Managing Director. The same was rejected through order dated 06.02.2014. This OA is filed challenging both the order of dismissal and the one of rejection of appeal.

4. The applicant contends that the criminal case registered at his instance against the senior officials of the organization did not end up in acquittal, and the local police, in a surreptitious and collusive manner closed it by treating it as a civil dispute, and that there was no basis for issuance of the charge memo against him. He further contends that the inquiry was not conducted in accordance with law and that the punishment imposed upon him is totally disproportionate and is on the higher side.

5. Respondents filed a detailed counter affidavit opposing the OA. It is stated that, ever since he joined the organization as a Law Officer, the applicant was involved in one criminal case or the other, and apart from not render any legal assistance to the respondents, the applicant

landed his employers in a spate of litigation, involving himself.

6. We heard the applicant who argued his case in person and Shri Sonal Kumar Singh with Shri Ritesh Sharma, learned counsel for the respondents.

7. The Law Officer in an organization, like HUDCO, is expected to assist and guide them in various legal issues. That can be in the context of entering into agreements for execution of projects, documentation for the purpose of sanction of loans and service matters pertaining to their employees. By the very nature of its functions, the HUDCO was not supposed to undergo, institute or indulge itself in criminal cases, except on rare occasions. However, the applicant has provided a full length of litigation by himself to the HUDCO.

8. It all started with the arrest of the applicant on the basis of the complaints submitted by his wife. During the course of arguments, it is stated that even after the arrest, the applicant has submitted medical leave application but he did not inform his employer of the factum of arrest. At a later stage, the respondents had to invoke the provision of law for suspension on the ground of his arrest. Though, an order of reinstatement was passed later, it is said to have

been kept in abeyance since the applicant did not turn up to join. Four or five years later, an order of reinstatement was passed once again.

9. Having joined the office at Jaipur, the applicant implicated the entire administration of the HUDCO in a criminal case alleging that they demanded bribe from him for releasing his salary for the period during which he was under suspension. The senior officials had to run around Courts to defend themselves in the cases filed by the applicant. Ultimately, when the criminal case ended in closure by stating that it is a dispute of civil nature, the charge memo was issued. The applicant did not even submit his explanation, much less did he participate in the departmental enquiry. The Inquiry Officer submitted its report holding that the charge is proved, and the order of dismissal was passed.

10. The applicant is not able to point out any legal infirmity in the inquiry proceedings. His contention that the charge memo ought not to have been issued, simply because the applicant has instituted the criminal proceedings, cannot be accepted. The respondents did not proceed to issue the charge memo soon after the applicant submitted the complaint and an FIR was registered. They

waited till the criminal case was closed. The charge framed against the applicant reads as under:-

“Article of Charge

Shri D. K. Srivastava, Law officer (Now Manager (Law) has made false complaint/FIR No.318/09 at the Police Station Jyoti Nagar, Jaipur City (South), Jaipur against Shri K. L. Dhingra the then CMD, HUDCO, Shri T. Prabakaran, Director Finance, HUDCO, Shri Vivek Kumar who was holding the additional charge of Executive Director (HR) and Shri Manoj Mathur, Deputy Chief (Projects) (now Deputy General Manager (Projects), the then Regional Chief, Jaipur. In the said complaint/FIR Shri D. K. Srivastava has alleged that the officials namely Shri K. L. Dhingra the then CMD, HUDCO, Shri T. Prabakaran, Director Finance, HUDCO Shri Vivek Kumar the then Executive Director (HR), HUDCO were harassing him and asking for a bribe of Rupee One Lac each for releasing his annual increments and other benefits due to him. In his complaint/FIR, Shri D. K. Srivastava has also alleged that since he had not paid the bribe of one lac each, these officials connived with Shri Manoj Mathur in harassing him in order to force him to pay the bribe.

The Police Station, Jyoti Nagar, Jaipur after its investigation in F.I.R. No.318/09 filed its Final Report No.43/10 dated 08.04.2010 in which the charge of corruption against these officials of HUDCO were negated. The Protest Petition of Shri D. K. Srivastava on the same was dismissed and the FR No.43/10 dated 08.04.2010 in F.I.R. No.318/09 was accepted by ACJM No.8, Jaipur City, Jaipur vide Order dated 14.07.2010.

Shri D. K. Srivastava has, therefore, filed a false complaint of bribery and harassment against the senior most officials of HUDCO. Thus by the said act Shri D. K. Srivastava has not only brought disrepute to HUDCO but has also committed an act of misconduct under Rule 4 (1) (iii), 5 (5) and 5 (42) of HUDCO CDA Rules.

A statement of imputations of misconduct on which the Articles of Charge was based together with list of documents and the list of witnesses through

whom the Article of Charge proposed to be sustained were also forwarded to Shri Dinesh Kumar Srivastava. AND WHEREAS, the Inquiry Officer has concluded the Inquiry proceedings and reported his findings vide letter dated 29th July, 2011. The due procedure required to be followed during the inquiry, was duly adhered to by the IO and decision was given ex-parte as the CO did not attend any of the regular hearings despite having been sufficient opportunity by Inquiry Officer.”

Admittedly, the applicant did not file any explanation to this. The Inquiry Officer submitted the report holding the charge as proved, and after giving opportunity to the applicant to submit representation, the impugned order was passed. Adequate reasons were assigned in support of the conclusion, and no illegality has crept in the process. The appellate authority has also examined the order passed by the disciplinary authority, and rejected the appeal.

11. It is pertinent to mention here that this OA was preceded by several other proceedings including OA No.140/2011 before the CAT, Jaipur Bench of this Tribunal. The applicant was not successful therein, and instituted the present OA in the year 2017. There is a delay of three years in challenging the order of appeal. Added to that, the applicant has impleaded several officers in this OA as respondents by name. That only shows his attitude towards the senior officers of the organization.

12. We do not find any basis to interfere with the impugned orders. The OA is accordingly dismissed. There shall be no order as to costs.

All ancillary applications stand disposed of.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/