

**Central Administrative Tribunal
Principal Bench**

OA No.3909/2018

New Delhi, this the 15th day of October, 2018

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

Sh. Madan Mohan, Group 'A'
S/o Sh. Ram Shanker Verma
Aged about 56 years
R/ D-1/88, Rabindra Nagar
Amrita Shergil Marg
Delhi-110003
Presently Principal Chief Controller of Accounts
M/o Human Resource Development ..Applicant

(By: Applicant in person)

Versus

Union of India through its Secretary,
Department of Expenditure
Ministry of Finance
New Delhi -110001.Respondent

(By Advocate: Shri Subhash Gosain)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

This OA is filed challenging the Office Order dated 03.04.2018 and the Charge Sheet dated 05.07.2018 issued against the applicant.

2. The applicant is an officer of Indian Civil Accounts Service of 1986 batch. A charge Memo dated

05.07.2018 was issued to him alleging that while working as Joint Controller General of Accounts(Admn.) in the office of Controller General of India, the applicant failed to discharge his duties properly and that, in turn, caused huge financial loss to the State. As many as 11 articles of charge were included in the charge memo.

3. Earlier the applicant filed OA No.2759/2018 challenging the charge memo. The OA was dismissed on 25.07.2018. Not satisfied with that Order, the applicant filed WP(C) No.8194/2018 before the Hon'ble Delhi High Court. An altogether new ground was raised before the High Court to the effect that the charge memo was issued with the approval of the Minister of State for Finance on the basis of order dated 03.04.2018 and that he intends to challenge the said order through which such power was conferred.

4. The Writ Petition was disposed of on 06.08.2018, leaving it open to the applicant to file a fresh OA before the Tribunal. However, the applicant filed a Review Application being RA No.139/2018. That was dismissed by the Tribunal on 20.08.2018. Then, he filed Writ

Petition No.9071/2018 challenging the order in the R.A.

The Writ Petition was dismissed on 29.08.2018.

5. The applicant contends that the Office Order dated 03.04.2018 was issued by the Ministry of Finance conferring powers upon the Minister of State for Finance to accord approval for disciplinary proceedings and that the same amounts to sub delegation of powers. He contends that his appointing authority is the President of India and the powers in that behalf have been delegated to the Finance Minister and the impugned office order amounts to sub delegation of powers.

6. We heard the applicant who argued the case in person and Shri Subhash Gosain, counsel for respondents at the admission stage itself.

7. This is a second OA filed by the applicant in relation to the disciplinary proceedings initiated against him. Strictly speaking, the OA is not maintainable on application of the principle of constructive *res judicata*. The applicant was supposed to urge all the grounds that are available to him when he challenged the

charge memo. In fact, one of the grounds raised by him was that the charge memo was not approved by the appointing authority. That was specifically dealt with in the O.A. and was rejected. It is another facet of that very ground, which is raised in this OA.

8. Though we could have rejected the OA on the ground of non maintainability, we examined the matter on merits also in deference to observation made by Hon'ble Delhi High Court. The impugned Office Order reads as under:-

"Reference is invited to this Department's Office Order of even number dated 11th September 2017. In partial modification of the ibid order, the Union Finance Minister has allocated the following work (earlier handled directly by the Finance Minister) in addition to the work already allocated to Shri Radhakrishnan P., Minister of State pertaining to Department of Expenditure (DoE), Department of Economic Affairs (DEA) and Department of Investment & Public Asset Management (DIPAM) until further orders:

2. Common to all Departments (Expenditure, Economic Affairs and DIPAM):

(a) Answering all Starred Questions (after Union Finance Minister has been briefed on replies for Starred questions).

(b) Disposal of all VIP references.

(c) All disciplinary cases – both initiation and final orders.

(d) Cases related to appointment, promotion, resignation and voluntary retirement of officers below Deputy Secretary level in services under the Ministry of Finance.

(e) Appeals/Petitions in disciplinary cases.

(f) Cases of training/deputation abroad.

(g) Cases relating to premature retirement under FR 56 and Rule 48 of Pension Rules.

(h) Comments on draft Note for the Cabinet or its Committees.

3. All other matters not specifically delegated to the MoS will be submitted directly to Finance Minister.”

9. From this, it is evident that the allocation of powers between the Minister of Finance on the one hand and Minister of State for Finance, on the other hand, were made. It is a matter of arrangement and allocation within the Ministry and by no stretch of imagination, it can be treated as sub delegation. The power exercised by the Minister of State would be as good as it having been exercised by the Minister of Finance.

10. The applicant placed reliance upon certain paragraphs in the judgment of Hon’ble Supreme Court

in ***Union of India v. B.V. Gopinath*** (2014) 1 SCC 351. That was a case in which the powers of Minister of Finance were exercised by the Chairman of Central Board of Direct Taxes. That is not the case here.

11. We do not find any merit in this OA. It is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

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