

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.187/2013

Reserved on : 12.09.2018
Pronounced on : 16.10.2018

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

G. S. Giri, Sr. A.O. (Retd.),
56, Manzil Apartment,
Plot No.7, Sector 9,
Dwarka, New Delhi-110077.

... Applicant

(By Mr. Ajesh Luthra, Advocate)

Versus

1. Delhi Development Authority
through Lt. Governor, LG House,
New Delhi.

2. The Vice Chairman,
Delhi Development Authority,
Vikas Sadan, INA,
New Delhi-110023.

... Respondents

(By Mr. Vijay Saini for Mr. Manish Garg, Advocate)

ORDER

Justice L. Narasimha Reddy, Chairman :

The applicant was working as Senior Accounts Officer, CAU (SEZ) in the Delhi Development Authority, the first respondent herein. A charge memorandum was issued to him on 28.07.2008, alleging that he allowed/released payments against work orders issued by the Deputy Director (Hort.)-I

during the financial year 2001-02, beyond the limits of the delegated powers of Rs.2.5 lakhs *per annum*. Another charge is that the applicant allowed/released payments against work orders and supply orders issued with the approval of Director (Hort.) South during the financial years 2001-02 and 2002-03 in excess of the prescribed annual ceiling, and by violating circular dated 22.11.1995, which restricted the power of the Director (Hort.) only to Rs.10 lakhs for work orders, and Rs.1 lakh for supply orders.

2. The applicant submitted his explanation, and the departmental inquiry was conducted. The inquiry officer submitted his report on 17.11.2009 holding that the charge is partly proved. The disciplinary authority issued a notice to the applicant on 25.02.2010, giving an opportunity to make representation, and the applicant filed one, on 19.03.2010. The applicant retired from service during the pendency of the proceedings. Through an order dated 14.12.2010, the disciplinary authority imposed the punishment of 10% cut in pension for a period of one year. The applicant filed an appeal before the Lt. Governor against the order of punishment. The same was rejected on 21.06.2012 as not maintainable. Hence, this OA.

3. The applicant contends that the work orders were issued by the Director (Hort.) or other competent officers, and it was only after verifying the relevant circulars that he had cleared the bills. It is stated that no objection was raised in the audit, and almost at the verge of his retirement, disciplinary proceedings were initiated, without any justification. It is also stated that identical charges were framed against the Director (Hort.), one Mr. Om Pal Singh, and in his case, the proceedings were closed by expressing displeasure, and without imposing any penalty. It is also stated that though similar charges were framed against his successor officer also, the proceedings were dropped against him.

4. The respondents filed counter affidavit opposing the OA. They contend that as an Accounts Officer, the applicant was supposed to verify whether the bills had been raised in accordance with the stipulated norms, and he has failed in discharge of his duties. It is stated that the punishment imposed against the applicant is commensurate with the charge held proved against him.

5. We heard Shri Ajesh Luthra, learned counsel for the applicant, and Shri Vijay Saini, learned counsel for the respondents.

6. The charge framed against the applicant reads as under:

“Shri G.S.Giri, Sr. A.O. allowed/released payments against Work Orders issued by DD (Hort.) during the financial year 2001-02 to the tune of Rs.405624/- against the delegated powers of Rs.2.50 lacs only (Annual limit).

Further Shri G.S. Giri as AO, CAU/SEZ/DDA during the year 2001-02 allowed/released payments against Work Orders & Supply Orders issued with the approval of Dir. (Hort.) South to the tune of Rs.480282/- and Rs.47750/- respectively resulting in cumulative value of Work Orders & Supply Orders issued with the approval of Dir. (Hort.) South during the year as Rs.1240840/- and Rs.138060/- respectively. Therefore, payments released under CAU/SEZ in excess of annual ceiling limits is observed as Rs.121,040/- & Rs.17800/- against WOs & SOs respectively by violating EM's circular No.477 dated 22.11.95 which delegated Dir. (Hort.) annual powers of Rs.10.00 lacs and Rs.1.00 for issuance of WOs & SOs respectively.

Further Shri G.S. Giri while working as AO, CAU/SEZ during the year 2002-03 allowed/released payments against Work Orders & Supply Orders issued with the approval of Dir. (Hort.) South to the tune of Rs.799131/- and Rs.12460/- respectively resulting in cumulative value of Work Orders & Supply Orders issued with the approval of Dir. (Hort.) South during the year as Rs.1680405/- and Rs.522965/- respectively. Therefore, payments released under CAU/SEZ in excess of annual ceiling limits is observed as Rs.372292/- & Rs.86780/- against Work Orders and Supply Orders respectively by violating EM's Circular No.477 dated 22.11.95 which delegated Dir. (Hort.) annual power of Rs.10.00 lacs and Rs.1.00

lacs for issuance of Work Orders and Supply Orders respectively.”

7. The allegation against the applicant is that he released payments against work orders and supply orders beyond the limits of the officers who sanctioned them. The limits of the Director (Hort.) are said to be Rs.10 lakhs in respect of the work orders, and Rs.1 lakh in respect of the supply orders per year, whereas he sanctioned works far exceeding those limits.

8. As an Accounts Officer, the applicant was generally required to verify whether the bills are passed by the competent authority. Since the Director happens to be superior to him, he cannot find fault with the acts and omissions on his part. Further, it would have been different altogether, had any punitive action been taken against the Director or the Deputy Director, who sanctioned the works far exceeding their limits. In such a case, the authority who released the bills can also be found fault with.

9. The Director (Hort.) at the relevant time was one Mr. Om Pal Singh. Similar proceedings were initiated against him, alleging that he exceeded the limits, in sanctioning the

works. The Vice Chairman of DDA passed an order dated 10.12.2007, which reads as under:

“Whereas disciplinary proceedings under Regulation 25 of the DDA Conduct, Disciplinary & Appeal Regulations, 1999 were initiated against Sh. Om Pal Singh, Dir. (Hort.) (Retd.) vide Memo No.F.26(1)/2004/Vig.IV/11609, dated 25.7.2007, for the following lapses:

Shri Om Pal Singh, Dir. (Hort.) (Retd.) issued work orders beyond the annual ceiling limits for the year 2001-02 & 2002-03 in violation to EM Circular No.477 dt.22.11.95 and No.429 dated 23.9.94 and, therefore, committed procedural lapses.

WHEREAS, Shri Om Pal Singh, Dir. (Hort.) (Retd.) submitted his reply vide letter dated 2.8.2007, 27.8.07 & 30.8.07 and whereas, the case was submitted to CVC for reconsidered advice on 12.9.07.

WHEREAS, CVC vide their letter No.00-W&H-026-72356, dt. 1.11.07 has advised to communicate “Displeasure” to Sh. Om Pal Singh, Dir. (Hort.) (Retd.).

WHEREAS, the undersigned being the Disciplinary Authority after careful consideration of the ovedrall facts on record, has come to the conclusion that ends of justice will be met, if displeasure of the Authority is conveyed to Shri Om Pal Singh, Dir. (Hort.) Retd.

NOW, therefore, the undersigned being the Disciplinary Authority in exercise of the powers conferred under rules & Regulation hereby order to communicate Displeasure of the Authority to Shri Om Pal Singh, Dir. (Hort.) Retd.”

10. Further, one Shri S. K. Joshi, who too was a Sr. Accounts Officer, as the applicant, was issued charge

memorandum dated 28.07.2008 with similar allegations, as in the case of the applicant. In the departmental inquiry conducted against him almost on the same lines, the inquiry officer submitted report on 22.04.2009 holding that the charge was not proved, and the proceedings were dropped. However, when it comes to the case of the applicant, a different view was taken, and punishment was imposed. It was not even alleged that the bills were released for any works that were not executed, or that the DDA incurred any financial loss on account of acts and omissions on the part of the applicant. Technical violations of limits on the part of the officers superior to the applicant cannot be permitted to result in a punishment to the applicant.

11. We, therefore, allow the OA and set aside the order of punishment dated 14.12.2010. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/as/