

**Central Administrative Tribunal
Principal Bench**

OA No.1195/2015

New Delhi, this the 26th day of July, 2018

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

R.K. Nafria, retired, S/o Sh. Dariya Singh
R/o H.No. 1485, Sec-31
Housing Road Colony
Gurgaon, Haryana. ... Applicant

(By Advocate: Shri M.K. Bhardwaj)

Vs.

UOI & Ors.

1. The Secretary, Ministry of Urban Development
Nirman Bhawan, New Delhi.
2. The Director General of Works
CPWD, Ministry of Urban Development
Nirman Bhawan, New Delhi. ... Respondents

(By Advocate: Shri Gyanendra Singh)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman:-

The applicant joined the CPWD in the year 1976 as Junior Engineer. He earned various promotions and ultimately retired as Superintending Engineer(Civil) on 31.05.2014. Five months thereafter he was issued a charge memo date 12.11.2014, wherein two articles of charge were framed. It was mentioned that on account of

negligence, on the part of the applicant, a contract which was initially awarded at an estimate of Rs.28,45,193/- was cancelled and re-awarded at a higher sum of Rs.30,58,867. Similar incident in relation to another contract was mentioned. It was alleged that the negligence exhibited by the applicant resulted in financial loss to the Govt. The said charge memorandum is challenged in this OA.

2. It is pleaded that the charge memo is issued beyond the time stipulated under Rule 9(2)(b)(ii) of CCS (Pension) Rules, 1972. It is also argued that on merits also, the charge cannot be sustained on scrutiny in the disciplinary inquiry. Other grounds are also urged.

3. In the counter affidavit, filed by the respondents, objection is raised as to the maintainability of the OA itself. It is also stated that the charge memo was issued within four years from the date on which the cause of action has arisen. As regards merits, it is submitted that the truth or otherwise of the allegations made against the applicant needs to be examined in the departmental inquiry.

4. We heard Shri M.K. Bhardwaj, learned counsel for the applicant and Shri Gyanendra Singh, learned counsel for the respondents.

5. The applicant was issued a charge memo, five months after retirement from service. Ordinarily the rule is that an employee cannot be subjected to disciplinary proceedings once he retires on attaining the age of superannuation. However, exceptions are carved out under Rule 9. It is to the effect that the disciplinary proceedings against a retired employee can be initiated; but only with the specific approval of the appointing authority and that too, within four years from the date of the incident that leads to disciplinary action.

6. The respondents reckoned the four years of time from the date on which the contracts were awarded at a higher sum i.e. 16.11.2010. The charge sheet is issued on 12.05.2014. It is almost at the verge of expiry of four years that the charge memo was served. All the same, it is within the stipulated time.

7. Coming to the merits of the matter. Though it is urged that the facts mentioned cannot be sustained on legal scrutiny, that is an exercise to be undertaken in the disciplinary inquiry. We cannot undertake the same.

Though, no stay was granted in the OA, the disciplinary proceedings are said to be still pending. Obviously, the respondents did not want to take risk, when the OA was pending. Though, the learned counsel for the applicant has relied upon an earlier Order passed by this Tribunal in OA No.1311/2010, we are of the view that the same does not apply to the facts of this case.

8. We dispose of the OA directing the respondents to complete the disciplinary proceedings within a period of six months from the date of receipt of a copy of this order. If the applicant has not been furnished the documents that are relied upon in the disciplinary inquiry, they shall be supplied to him forthwith. Within fifteen days from the date of such furnishing of such documents, the applicant shall be entitled to submit his explanation. If the applicant does not co-operate, it shall be open to the respondents to proceed ex-parte, in accordance with law. There shall be no order as to costs.

(Aradhana Johri)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

/vb/