

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A No. 1766/2013

New Delhi, this the 2nd day of April, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

Banarasi Dass
Manager, Infra-Sales
BSNL Office, 6th Floor,
Statesman House, Connaught Place,
New Delhi.

Residential Address :
Banarsi Dass
A-359, Govind Puram,
Ghaziabad (U.P)

...Applicant

(By Advocate : Mr. G. D. Bhandari)

Versus

Bharat Sanchar Nigam Ltd.,
Through

1. Chairman-cum-Managing Director
Bharat Sanchar Bhawan, BSNL,
3rd Floor, Janpath, New Delhi.

2. The Director HR, BSNL,
Bharat Sanchar Bhawan,
3rd Floor, Janpath, New Delhi.

3. The PGM – BSNL,
Infra-Sales Unit, 6th Floor,
Bharat Sanchar Bhawan,
Janpath, New Delhi.

4. The CGM,
UP (W), Telecom Circle, Shastri Nagar,
Telephone Exchange Building
Garh Road, Meerut (UP).

...Respondents

(By Advocate : Ms. Sangita Rai)

O R D E R (O R A L)

Justice L. Narasimha Reddy, Chairman :

The applicant was working as a Manager (Infra Sales) in the BSNL, Janpath, New Delhi. He was issued a charge memo dated 04.03.2010 alleging that though a tender for sale of scrap was finalised in the year 1999, he permitted the highest bidder to deposit the earnest money two years thereafter and that he permitted lifting of the material on as is where is basis, without resorting to the requirement of weighing the material. The applicant submitted his explanation by raising several contentions. Not satisfied with that, the Disciplinary Authority appointed Inquiry Officer and the report was submitted by the latter on 29.03.2011 holding that all the charges are proved. The applicant was given an opportunity to submit explanation. It was submitted, and after taking the same into account, the disciplinary authority passed an order dated 18.04.2011 imposing the punishment of the reduction of the pay scale of the applicant by one stage for a period of one year with cumulative effect. The appeal preferred by the applicant was rejected and thus this O.A.

2. The applicant contends that there was a long delay in initiation of the proceedings and that the objections raised in this behalf from time to time were not considered

at all. It is also stated that though the CVC recommended action against several senior officials, the applicant alone was chosen for punishment in this behalf. He further submitted that the prescribed norms were not followed when the punishment was imposed and that the punishment imposed against him was harsh and disproportionate. The applicant has since retired from service.

3. Respondents filed counter affidavit opposing the various contentions advanced on behalf of the applicant. It is stated that there was a clear lapse on the part of the applicant in permitting to deposit the earnest money long after the expiry of the prescribe time and in permitting the lifting of the material in the absence of the member of the committee.

4. We heard Mr. G. D. Bhandari, learned counsel for applicant and Ms. Sangita Rai, learned counsel for respondents.

5. The O.A. contains extensive pleadings covering various aspects, particularly in relation to the delay in initiation of the proceedings. Large number of precedents are quoted. It is no doubt true that the proceedings were initiated almost a decade after the alleged incident had

taken place. The fact however remains that the applicant filed O.A No. 1580/2010 pleadings that ground and this Tribunal declined to interfere. There is some substance in the submission of the applicant that the advice tendered by the CVC for proceeding against several senior officials was not adhered to and the applicant alone was discriminated. However, when the charges against the applicant are proved, the mere fact that the other officials are not proceeded with, would not be the ground to set aside the order of punishment passed against the applicant. Though it is pleaded that there are some procedural lapses in the inquiry, we are not impressed by that.

6. As regards quantum of punishment, there is some justification in the submission of the applicant that in the case of another employee, punishment of stoppage of increment for a period of 6 months without cumulative effect was imposed, whereas, in his case, the punishment was imposed with cumulative effect which has affect on his retirement and pensionary benefits.

7. Having regard to the facts and circumstances of the case, we are of the view that the punishment can be treated as one, without cumulative effect, i.e., the one not having the effect of postponing the increments permanently, that

too for the limited purpose of determining the pensionary benefits.

8. Hence, we allow this O.A in part, modifying the punishment to the one of reduction of pay for a period of one year, with the condition that on expiry of one year, it shall not effect the postponing of future increments. However, this shall be relevant only in the context of determining the retirement benefits and pension of the applicant, and he shall not be entitled to be paid any arrears for the period before his retirement.

9. It is represented that the retirement benefits of the applicant were not released on account of the pendency of the O.A. If that is so, the respondents shall release the same within two months from receipt of a certified copy of this order. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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