

**Central Administrative Tribunal  
Principal Bench**

**OA No.4306/2013**

New Delhi, this the 22<sup>nd</sup> day of May, 2019

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

Sh. Nitish Sharma  
S/o Late Ram Phal Sharma  
R/o D-109/A, Gali No.1,  
Burari Road, Saroop Nagar,  
Delhi 110 042.

.... Applicant.

(Applicant is present)

Vs.

1. Union of India  
Through its Secretary  
Ministry of Corporate Affairs,  
Vth Floor, A-Wing, Shastri Bhawan,  
Dr. Rajender Prashad Road,  
New Delhi 110 001.
2. Regional Director (N.R.)  
Ministry of Corporate Affairs,  
PDIL Bhawan, Indian Oil Circle,  
Sector 1, NOIDA (UP).
3. Registrar of Companies NCT of Delhi & Haryana  
4<sup>th</sup> Floor, IFCI Tower, 61, Nehru Place,  
New Delhi 110 049. .... Respondents.

(By Advocate : Dr. Ch. Shamsuddin Khan)

**: O R D E R (ORAL) :**

**Justice L. Narasimha Reddy, Chairman:**

The applicant is working as Junior Stenographer in the Ministry of Corporate Affairs. He was issued a charge memo dated 03.02.2005 alleging certain acts of indiscipline. This OA is filed challenging the same.

2. The applicant contends that the very issuance of the charge memo is untenable in view of the various acts and omissions on the part of the respondents, in light of the order dated 25.09.2003 passed in OA No.739/2002. Other grounds are also urged.

3. The respondents filed a counter affidavit opposing the OA. It is stated that the OA is not maintainable against the charge memo, particularly when the applicant has been imposed the punishment in relation to a charge.

4. We heard the applicant who argued his case in persona and Dr. Ch. Shamsudddin Khan, learned counsel for the respondents.

5. This OA has some background. The services of the applicant were terminated on 12.09.2000. Aggrieved by that, he filed OA No.739/2002. It was allowed on 25.09.2003 setting aside the order of termination and with certain directions. Accordingly, the proceedings were resumed and steps were taken.

6. The charge memo which is impugned in the order alleged certain acts of indiscipline on the part of the applicant. The articles of charge read as under:

“Article I

Shri Nitish Sharma, after his reinstatement on 26.05.2004, while working as Junior Stenographer in the office of the Registrar of Companies, Rajasthan, Jaipur showed utter contempt and disobedience of the orders of his superiors, in as much as he unauthorisedly absented himself frequently. Further he left office on 10.09.2004 after taking half a day's casual leave and permission to leave station, to come back for duty on 13.09.2004. He has remained absent/has been absenting from 13.9.2004 onwards wilfully without intimation.

By the aforesaid acts the said Shri Nitish Sharma failed to maintain devotion to duty and acted in a manner unbecoming of public servant thereby contravened the provisions of Rule 3 (1) (ii) & (iii) of CCS (Conduct) Rules, 1964.”

7. The prayer in the OA is somewhat curious. Not only the charge memo is challenged but also the applicant wants the Tribunal to prevent the Disciplinary Authority from compelling him to attend the office without valid appointment. The prayer reads as under:-

- “(a) to set aside the impugned order dated 3.2.2005 with all its consequences.
- (b) the respondents may be estopped to exercise as Disciplinary Authority and to force applicant to attend office prior to passing of fresh valid appointment letter from the date of initial appointment letter i.e. 1.12.1995 and the entire period w.e.f. 2.5.11.2003 till passing of such appointment letter may kindly be counted as spent on duty for all purposes.
- (c) to direct respondents to reimburse TA/DA bill for attending Court proceedings.”

8. We take serious exception to the manner in which the applicant is conducting himself. For all practical purposes, he appears to have been encouraged by the relief granted

by the Tribunal earlier. The allegation in the charge memo is only about the alleged absence. The applicant could have put forward his case before the Disciplinary Authority and pleaded his own case. Instead, he filed this OA by claiming reliefs which are totally impermissible in law.

9. Another important aspect is that on the basis of the charge memo, the respondents imposed punishment upon the applicant and that, in turn, was challenged in OA No.4299/2013. The OA was dismissed on 12.01.2017. Once the order of punishment is upheld in an OA, the question of interfering with the charge memo in relation thereto does not arise. The OA is accordingly dismissed. There shall be no order as to costs.

**(Aradhana Johri)**  
**Member (A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

/pj/