

**Central Administrative Tribunal
Principal Bench**

OA No.1886/2014

New Delhi, this the 10th day of April, 2019

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

S.S. Gahlot, Sr. A.O. (Retd.)
Son of Shri Dharam Singh
Aged about 64 years
Flat No.23-C, Pocket-4
Mayur Vihar, Phase-I
New Delhi-110091.Applicant

(By Advocate: Shri Ajesh Luthra)

Versus

1. Delhi Development Authority
Through its Lt. Governor
L.G. House, New Delhi.
2. The Vice Chairman
Delhi Development Authority
Vikas Sadan, INA
New Delhi-110023.Respondents

(By Advocate: Ms. Geetanjali Sharma)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

The applicant retired from service of the South West Zone of the Delhi Development Authority as Senior Accounts Officer. He was issued a charge memo

dated 05.02.2009 alleging that in the year 2009, he released a sum of Rs.2.57 crores against a Budget Slip for Rs.9.2 lakhs and released Rs.30,17,176/- against another Budget Slip for Rs.9.7 lakhs.

2. It was also alleged that he failed to act as a watch dog in the context of payment of bills and acted in a manner prejudicial to the interest of the DDA. The applicant submitted his explanation and not satisfied with that, the Disciplinary Authority appointed an Inquiry Officer. In his report, the IO held the articles of charges, as proved. Taking the same into account, the Disciplinary Authority passed order dated 27.09.2011 imposing 10% cut in the pension for a period of one year.

3. The applicant availed the remedy of appeal before the Commissioner and the same was rejected on 15.10.2012. Hence this OA.

4. The applicant contends that though the practice of issuance of Budget Slips was in vogue, it was not being strictly followed in the DDA and in view of that, the bills were cleared duly verifying the certification as to

execution of work. It is submitted that the findings recorded by the IO are not supported by the record and that there was no basis for imposing the punishment. It is also stated that in similar cases, the Lt. Governor, as a Revisional Authority, has taken the view that the lapses are procedural in nature and exonerated the concerned employees.

5. Reliance is also placed upon an Order dated 12.09.2014 passed by this Tribunal in OA No.2556/2013 filed by the applicant himself and the consequential order passed by the Disciplinary Authority.

6. The respondents filed a detailed counter affidavit opposing the OA. It is stated that the applicant was under obligation to verify the budgetary allocation and he was supposed to pass the bills only when there existed adequate allocation and that he has violated the same. It is stated that this is not a solitary instance in respect of the applicant. As regards the comparison drawn by the applicant, the respondents states that the facts in those cases were different,

such as that, in one case, the charges were held not proved and in other case the charges were held as partly proved.

7. We heard Shri Ajesh Luthra, learned counsel for the applicant and Ms. Geetanjali Sharma, learned counsel for the respondents.

8. The applicant was functioning as Senior Accounts Officer. The importance of such an office, in a gigantic organization like DDA, hardly needs any emphasis. The works worth several crores of rupees are executed and the bills are required to be passed only with the approval of the Senior Accounts Officer. Not only the factors like the satisfaction as to the execution of work on the basis of certification issued by the concerned authority, but also the availability of funds and budget allocation are required to be taken into account, before a bill is passed. For all practical purposes, the office of Senior Accounts Officer functions as internal vigilance and custodian of funds.

9. The charges framed against the applicant read as under:-

“Article-I

(1) Protection of DDA Land, Sh. C/o random rubble masonry wall on vacant land under the Jurisdiction of CC-5/DDa, Agmt No. 13/EE/WD-5/ DDA/ 2005-06, Agency:- M/s Tara Chand Summit Const. Co.

Article-II

(2) Projection of DDA Land

SH: Construction in raising and repair of boundary wall and chain link fencing to Sant Nagar(Extension), Chaukhandi.

Agmt. No.20/EE/WD-5/DDA/2005-06

Agency M/s Tara Chand Summit cost. Co.

That the said Sh. S.S. Gahlot, Sr. A.O. by his above act exhibited lack of devotion to duty and conduct unbecoming of an employee of the Authority thereby violating sub-rule 1(i) & (iii) of Regulation 4 of the DDA Conduct, Disciplinary and Appeal Regulations, 1999.”

10. The applicant submitted his explanation denying the charges. A detailed inquiry was conducted and in his report dated 25.06.2010, the Inquiry Officer held as under:

“On the basis of documentary and oral evidence adduced before me during the inquiry as well as on the basis of DDA, Conduct, Disciplinary and Appeal Regulations, 1999 and after careful assessment of the

above deliberations, I hereby hold that the charge as framed against Shri S.S. Gahlot, SAO in Ann. I alongwith that of Annex. II of the Memorandum No. F.27 (9)/ 07/ EE(Vig.) VII/ DDA/1156-62 dated 5.2.09 Article-I & II as "PROVED".

11. The Inquiry Officer observed that the applicant was required to function as a watch dog in the system but has failed to discharge his duties. The Disciplinary Authority made the copy of the report of the Inquiry Officer available to the applicant and thereafter imposed the punishment of forfeiture of pension to the extent of 10% cut for a period of one year. The appeal preferred by the applicant was rejected.

12. In the matters of this nature, the Tribunal cannot act as an Appellate Authority. It is only when any serious procedural lapse in the inquiry or at other stages of disciplinary proceedings is proved, that a possibility may exist for interference. The applicant is not able to point out any such procedural lapse.

13. A perusal of the order of punishment discloses that as against the budgetary slip for Rs.9.2 lakhs, the applicant released a sum of Rs.2.5 crores and in the

second instance, as against the allocation of 9.7 lakhs, he released Rs.30,17,176/- . The result is that he has reduced the entire budgetary process and budget slips to redundancy.

14. Heavy reliance is placed upon an order of the disciplinary proceedings in relation to one Shri Krishan Pal who was working as Assistant Accounts Officer. The allegation against him was that he processed the case for issue of budget slips in respect of sites mentioned therein and that he failed to ensure that allocation for issue of tender documents were scrutinized before they are issued in respect of the work to be done. The IO recorded a finding to the effect that the charges are not proved. In addition to that, it was held that on his part, the employee i.e. Shri Krishan Pal raised an objection before the Senior Accounts Officer and the latter over ruled the same and thereby the tender notice and other developments have taken place.

15. The Disciplinary Authority disagreed with the findings and imposed some punishment. In the

revision filed by him, the Lt. Governor took the view that the punishment cannot be sustained. However, the plea that the Budget Slips are not of much relevance and the procedure took place in the circular F&E No.19 dated 19.06.1995 need not be followed, was repelled. The relevant portion of the order of the Lt. Governor reads as under:-

"7. ...There is no force in the contention of the petitioner that recommending payment in excess of "Budget slips" was not a violation of circular F&E no.19 dated 19.06.1995, and obtaining revised budget slips was as per the decision in the minutes of meeting vide No.FE 16(11) 2006/CAU/155 dated 20.4.2007. As per circular F&E no.19 dated 19.06.1995, all types of payments chargeable to works, without any exception, are required to be released against budget slips only, therefore, in case the bill amount is more than the budgeted amount it is logical for reappropriation of funds to cover the total bill amount...."

16. A further observation was made to the effect that the lapse was mostly procedural and there is no allegation that the works were not duly authorized. It is evident from the following:-

"...However, admittedly the petitioner, on additional charge, was responsible in processing the bill for payment, in excess of budget slip, in only one of the six works, and as established by Inquiry Officer while

holding the charge as "not proved", the petitioner had correctly reported the amount of the bill and the amount appearing in the Budget Slip to the Sr. Accounts Officer, who had passed the bill for payment..."

17. If the facts of that case are compared to the one on hand, it becomes clear that the charges against the applicant are held to be proved, and he is not a lower official in the department and he virtually headed the accounts department. In the case of Shri Krishan Pal, the employee refused to pass the bills or notices but the superior officer, who is the rank of applicant herein, had cleared the bills and the charge against him was held not proved. In the instant case, it is the applicant who had taken the decision by himself ignoring the limits contained in the Budget Slips. Therefore, the dissimilarities are glaring.

18. Reliance is also placed upon the orders passed by this Tribunal in OA No.2556/2013. The applicant herein was issued a charge sheet dated 14.02.2007. The allegations therein were somewhat different. The same are contained in Articles 1 and 2, which read as under:-

"Article-I

(i) That the said Sh. S. S. Gahlot while functioning as Sr. A.O./CAU/SWZ failed

to ensure that A/A & E/S or ARMO is available before issue of budget slips of above works.

(ii) That the said Sh. S.S. Gahlot, while functioning as Sr. A.O./CAU/SWZ failed to ensure that revised budget slip/moving budget slip is issued for the above referred work though the amount of final bill has exceeded the amount for which budget slip was issued.

Article-2

That the said Sh. S.S. Gahlot, while functioning as Sr. A.O/CAI/SWZ failed to ensure that the applications for issue of tender documents has been scrutinized before issue of tender document and that all the applications are placed in file.

That the said Sh. S.S. Gahlot, Sr. A.O., by his above act exhibited lack of devotion to duty and conduct unbecoming of an employee of the Authority thereby violating sub-rule (i) & 1(iii) of Regulation 4 of the DDA Conduct, Disciplinary and Appeal Regulations, 1999.”

19. It needs to be noted that the IO held Article 1 as partly proved and Article 2 as not proved. It is under those circumstances that the Tribunal had allowed the OA and set aside the order of punishment and remanded the matter to Disciplinary Authority. It is also stated that the order passed in the OA was upheld at the level of Hon'ble High Court and the Disciplinary

Authority has exonerated the applicant through a separate order dated 04.10.2017.

20. We do not find any comparison between the facts in these two cases. It appears that the subject matter of the present OA is not a solitary instance of deviation from the procedure on the part of the applicant. The entire establishment and set up of the budgetary allocation has been virtually ignored by him. The very purpose of having a regulated flow of funds was defeated.

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

(Mohd. Jamshed)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

/vb/