

**Central Administrative Tribunal
Principal Bench, New Delhi.**

**OA- 1570/2015
MA No. 1935/2015**

New Delhi this the 11th day of September, 2019.

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

S. K. Kaushik, Retired Assistant Accounts Officer,
Aged about 64 years,
S/o Sh. Chandan Singh,
R/o H. No. 376/22, Chauri Gali, Nehru Park,
Bahadurgah, Distt. Jhajjar, Haryana. Applicant

(through Mr. M. K. Bharadwaj)

Versus

DDA & Ors.

1. Delhi Development Authority,
Vikas Sadan, INA Market,
Through its Vice Chairman.
2. The Finance Member,
Delhi Development Authority,
Vikas Sadan, INA Market,
New Delhi.

.... Respondents

(through Mr. S. M. Zulfiqar Alam)

: O R D E R (ORAL) :

Justice L. Narasimha Reddy, Chairman :

The applicant joined the service of Delhi Development Authority in the year 1976 as LDC. On the basis of his performance in a competitive examination, he was appointed as Assistant Accounts Officer in the same organization. A

charge memorandum was issued to him on 18.07.2000 alleging that he failed to perform his duties honestly in respect of credit verification as regards Challan dated 25.06.1997 for a sum of Rs. 5,58,880.25/- . The applicant and three other officers were also shown as accused, in the criminal case instituted by the CBI. The applicant retired from service in November, 2010. There was no progress in the disciplinary proceedings for about 05 years, and on 30.03.2015, the respondents passed an order proposing to resume the disciplinary proceedings. This OA is filed challenging the order dated 30.03.2015.

2. The applicant contends that having issued the charge memorandum in the year 2000, the respondents did not take any further steps and the plea taken by them that a communication was received from the CBI to stall the disciplinary proceedings is totally incorrect. He submits that the said communication was in respect of a different matter and it has nothing to deal with the case in hand. With these contentions, the applicant seeks relief to quash order dated 30.03.2015 as well as the charge memorandum dated 18.07.2000. Other consequential reliefs are also claimed.

3. Respondents filed a counter affidavit opposing the OA. It is stated that though the charge memorandum was issued

after noticing the irregularities committed by the applicant, further proceedings could not take place in view of the communication received from CBI in the year 2006. It is stated that respondents have been making effort to resume the proceedings and went on writing letters almost every year to the CBI but they had to wait till the criminal case is disposed of. According to them, the criminal case ended in November, 2014 and soon thereafter, disciplinary proceedings are resumed.

4. We heard Mr. M. K. Bharadwaj, learned counsel for the applicant and Mr. S. M. Zulfiqar, learned counsel for the respondents.

5. The applicant was issued a charge memorandum on 18.07.2000. It appears that some corrective steps had to be taken to make a charge sheet to be in order. Added to that, the applicant and certain other officers are facing criminal case, instituted by the CBI. The letter addressed by CBI on 17.04.2006 reads as under:-

“In connection with subject cited case, it is advised that the departmental proceedings against S/Shri VP Anand, SK Kaushik, Gurnam Chand & Gurdass (officials of DDA) may be suspended forthwith pending disposal of the trial against them in the court of law, as the allegations against them are of serious and grave nature.”

6. In this letter, there is a reference to the pending criminal case against the applicant and three other officials by name.

Though the applicant contends that the letter was addressed by CBI in connection with another case, he is not able to substantiate the same. Further, if the absence of progress in the present disciplinary proceedings was causing detriment to the applicant, he was required to ascertain the reasons or to approach this Tribunal. It is not as if the respondents sat over the matter once the communication is received from CBI. In their counter affidavit, it is stated that as many as 05 letters were addressed between 2010 and 2014 to know the stand of CBI. The criminal case was decided only on 07.11.2014.

7. Reliance is placed upon by the learned counsel for the applicant on a large number of judgments. In **P.V. Mahadevan Vs. M.D. Tamil Nadu Housing Board** JT 2005 (7) SC 417, the Hon'ble Supreme Court interfered with the charge memorandum on the ground that it was issued 10 years after the occurrence of the incident. In the instant case, a charge memorandum was issued hardly within 02 years. In **M.V. Bijlani Vs. Union of India & Ors.** JT 2006 (4) SC 469, the Hon'ble Supreme court has set aside the order of punishment on finding that the conclusion arrived at by the IO was the result of improper appreciation of the evidence. That stage has not reached in this case.

8. In **P. K. Mathur Vs. Union of India & Anr.** WP (C) No. 7982/2007, the disciplinary authority did not take any steps for a period of one and a half year, after the report of the IO was submitted. Added to that, the Hon'ble High Court issued directions more than once, to conclude the proceedings on the basis of the report of the IO; but there was total inaction on the part of the respondents. Ultimately relief was granted. The facts of this case cannot be compared with that. Several other judgments relied upon by the applicant are almost on the same lines and in none of them, it was held that the delay in conclusion of the disciplinary proceedings even if at the instances of the CBI, would entail in quashing of the same.

9. We do not find any merit in the OA and accordingly the same is dismissed. However, since the applicant has already retired from service, the disciplinary proceedings shall be concluded within 01 year. In no circumstances, they shall spill beyond 01.09.2020. It shall be open to the applicant to raise all the grounds that are available to him including form and contents of the charge or nature of evidence. Pending MAs, if any, shall stand disposed of. There shall be no order as to costs.

**(Mohd. Jamshed)
Member (A)**

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

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