

**Central Administrative Tribunal
Principal Bench**

**OA No.2255/2019
MA No.3108/2019**

New Delhi, this the 16th day of October, 2019

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

Shri P. Ramesh,
Working as Assistant Director (IT)
(Under Suspension) Group 'A',
S/o S. Packirisamy,
R/o House No.1001, C2C,
Golf Link Residency Apartment,
Sector-18B, Dwarka,
New Delhi-110078.

...Applicant

(By Advocate : Shri Vijender Kumar for Shri M.K.
Bhardwaj)

Versus

1. National Board of Examination,
Through its Executive Director,
Ansari Nagar, Ring Road,
New Delhi-110029.
2. The President,
National Board of Examination,
Ansari Nagar, Ring Road,
New Delhi-110029.
3. The T.R. Mohanty,
Inquiring Authority,
National Board of Examination,
Ansari Nagar, Ring Road,
New Delhi-110029.
4. Sh. Krishan Pal Saroha,
Presenting Officer,
Consultant,

National Board of Examination,
Ansari Nagar, Ring Road,
New Delhi-110029.

...Respondents

(By Advocate : Shri A.K. Behera with Shri Kirtiman Singh
with Shri Waize Ali)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicant is working as Assistant Director in the National Board of Examination. Disciplinary proceedings were initiated against him by issuing a charge memo dated 21.12.2018. He submitted explanation, denying the charges. Not satisfied with that, the Disciplinary Authority appointed the third respondent as Inquiry Officer and the 4th respondent, as the Presenting Officer. This OA is filed challenging the appointment of Inquiry Officer and Presenting Officer.

2. The applicant contends that the third respondent is a retired officer of the Statistical Service and that his appointment is contrary to the settled principles of law. To be precise, it is stated that firstly, the third respondent is an outsider and secondly, he is facing the disciplinary proceedings. As regards the 4th respondent also, it is

stated that he is not part of the department and has been engaged by spending huge amount.

3. Counter affidavits are filed by the respective respondents. They deny the allegations made by the applicant and submit that no illegality has occurred in the appointment of respondents No.3&4 as Inquiry Officer and Presenting Officer, respectively.

4. We heard Shri Vijender Kumar for Shri M.K. Bhardwaj, learned counsel for applicant and Shri A.K. Behera, learned counsel for respondents.

5. Though the applicant has challenged the very charge memo, we are not inclined to interfere with the same. The truth or otherwise of the allegations made against the applicant needs to be established in the pending inquiry.

6. The applicant raised objection for appointment of third respondent as Inquiry Officer. The Board has its own Disciplinary Rules, prescribing the relevant procedure. As an extra ordinary measure, the third respondent, who is not part of the Department, is

appointed as Inquiry Officer. Though it is not uncommon to appoint the outsiders as Inquiry Officer, much would depend upon the circumstances. For example, if an employee who is sought to be inquired into, is a senior and there are no seniors to him to be appointed as Inquiry Officer, recourse can be taken to outsiders. Respondents did not fall back on that ground.

7. Added to that, the applicant has his own grievance against the third respondent, be it in the context of the manner in which the proceedings are taking place or the fact that the third respondent himself is said to be facing disciplinary proceedings. Whatever be the truth of these allegations, fairness demands that the delinquent employee should gain the confidence of the Inquiry Officer and should not have any doubt about his impartiality. It would be in the interest of all, that the third respondent is replaced by another officer, particularly, from the Board itself. In case it becomes inevitable to appoint an outsider as Inquiry Officer, it shall be ensured that the payment of charges or emoluments is strictly, in accordance with the prescribed norms.

8. The applicant has also raised an objection about the engagement of the 4th respondent as a Presenting Officer. Initially, one Shri Chatterjee was appointed as Presenting Officer and hardly within one month, he was changed. Once an employee has apprehension about the impartiality of the 4th respondent, it would be better that he is replaced.

9. The applicant has made a grievance regarding reduction of Subsistence Allowance. The same shall be examined by the Disciplinary Authority and appropriate orders shall be passed in that behalf, within a period of four weeks.

10. Therefore, we partly allow the OA, directing the respondents No.1&2 to replace respondents No.3&4, by choosing the competent persons, in accordance with law. It is also made clear that the emoluments to be paid to them shall be strictly in accordance with the norms stipulated in the Organisation. The applicant shall extend cooperation and if he does not cooperate, it shall be open to the Disciplinary Authority, Inquiry Officer and Presenting Officer to proceed with the inquiry, as

provided for, under the relevant rules and conclude the same at the earliest.

Pending MAs, if any, stand disposed of.

There shall be no orders as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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