

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 3292/2014

New Delhi, this the 19th day of August, 2019

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

Shri Om Prakash
Aged 51 years
S/o Shri Harcharan
R/o House No.360, Gali No.16
Bhikam Colony, Tigaon Road
Ballabhgarh, Faridabad
Haryana
Working as Kanoongo.

.. Applicant

(By Advocate: Shri A.K. Singh)

Versus

1. Delhi Development Authority
Through its Vice Chairman
Vikas Sadan, INA Market
New Delhi.
2. Commissioner (Personnel)
Disciplinary Authority
Delhi Development Authority
Vikas Sadan, INA Market
New Delhi.
3. Finance Member
Appellate Authority
Delhi Development Authority
Vikas Sadan, INA Market
New Delhi.

.. Respondents

(By Advocates: Mrs. Sriparna Chatterjee)

O R D E R (ORAL)**Justice L. Narasimha Reddy, Chairman**

The applicant was working as Patwari in Delhi Development Authority (for short, DDA) in the year 2004. In relation to demolition of a building, which is said to have been on a land belonging to DDA, the Lokayukta made an observation that the responsibility need to be fixed. It is, in this context, that the applicant was issued a Charge Memorandum dated 12.07.2012. The allegation against the applicant was that a file, pertaining to the land in question was marked to him on 06.12.2004 by the concerned Kanoongo, seeking clarification, but the applicant kept the file with him for 21 days and returned it by stating that the case is being dealt with by JE/DA.

2. The file is stated to have been circulated to the applicant for the 2nd time but he kept it with him for 91 days and returned it with the same reply. It is only in the 3rd attempt that he said to have submitted a report and, that in the meanwhile, the limitation to file an appeal

against the concerned order has expired. The applicant submitted a representation, denying the charges. He stated that he was not the authority to decide the important question and that first circulation to him was after the expiry of the period of limitation of four months, stipulated in the relevant case.

3. Not satisfied with the explanation submitted by the applicant, the Disciplinary Authority (for short, DA) appointed the Inquiry Officer (IO, for short). Through his report dated 30.01.2013, the IO held the charge as 'Not Proved'. The DA, however, issued notice dated 15.05.2013, proposing to differ with the finding. On a consideration of the explanation submitted by the applicant, he passed an order dated 06.09.2013, imposing the penalty of 'reduction of pay of the applicant by two stages for a period of two years with cumulative effect'. It was also directed that he will not earn increments during the period of reduction and after expiry of such reduction. An appeal preferred by the

applicant was rejected, through order dated 09.05.2014. Hence this O.A.

4. The applicant contends that the very charge framed against him was without basis and factually incorrect. He submits that the gravity of the charge was that the alleged delay on his part has resulted in expiry of period of limitation for preferring an appeal, whereas the IO has categorically found that the file was circulated to the applicant long after the expiry of limitation. He further submits that the DA differed with the findings of the IO without any basis and the punishment imposed against him is totally disproportionate. He further submits that the Appellate Authority did not examine the various points urged by him.

5. Respondents filed a counter affidavit opposing the OA. According to them, the applicant exhibited gross negligence and indiscipline in handling the file circulated to him and that led to severe disadvantage to the DDA. It is stated that the findings of the Inquiry officer was

disagreed, duly following the prescribed procedure and the DA imposed the punishment, commensurate with the gravity of misconduct. It is also stated that the Appellate Authority discussed the matter at length.

6. We heard Shri A.K. Singh, learned counsel for the applicant and Mrs. Sriparna Chatterjee, learned counsel for the respondents.

7. The allegation made against the applicant is contained in Annexure-1 appended to the Charge Memorandum dated 12.07.2012, which reads as under:

“Statement of imputation of misconduct in support of article of charges to be framed against Sh. OM PRAKASH, KANOONGO (then PATWARI)

Sh. Om Prakash, Kanoongo (then Patwari) while working in LM/SEZ was marked a court file bearing No. F26(49)2003/TC/Lt./C/Legal on 06-12-2004 by the concerned Kanoongo for clarifying the observation raised by Dy. Director/LM/SEZ, whether it is on DDA land or private. He submitted the file on 27-12-2004 i.e. after 21 days stating only that the case is being dealt by JE/DA. The file again sent to him on 3-1-2005; reminding him the observation of Dy. Director/LM/SEZ dated 12-12-2003 but he returned the file on 4-4-2005 i.e. after 91 days stating that it pertains to JE/DS. His officer again marked the file to him on 6-4-2005 and as such he ultimately submitted his report on 8-4-2005. During this process, the file tossed within LM Deptt. and took a period of 116 days which resulted

in the fact that the time limit to file the appeal was over.

Thus, by above acts, Sh. Om Prakash, Kanoongo (then Patwari), while posted in LM Branch contravened the Rule 4(i) & (ii) of DDA Conduct, Disciplinary and Appeal Regulation 1999. He failed to maintain absolute integrity, devotion to duty and acted in manner unbecoming of a public servant.”

8. From a perusal of this, it is evident that the concerned file was circulated to the applicant thrice and, in all, he took 116 days. According to the respondents, that resulted in expiry of the period of limitation of filing an appeal. However, from a perusal of the report of the Inquiry Officer, it is evident that initial circulation to the applicant itself was after expiry of the said period of limitation. The IO categorically held the charge as ‘Not Proved’. Though the DA issued a notice dated 15.05.2013, we find that no substantial ground is made therein. The finding of the IO that the limitation expired by the time, the file was circulated was not addressed at all.

9. The punishment imposed on the applicant is reduction of pay scale by two stages for a period of two

years with cumulative effect. This naturally is a major penalty. We are of the view that the proceedings were initiated against the applicant only because of the observation made by the Lokayukta, that too, long after the alleged misconduct or lapse on the part of the applicant. It needs to be noticed that the applicant is not conferred with any power to take decision and he belongs to a lower category in the establishment. If the superior authority wanted any information from the applicant, he could have certainly summoned him and got the information. Repeated circulation of the file to the applicant was totally uncalled for.

10. The finding of the IO that the file was circulated to the applicant long after the expiry of time made un rebutted. Therefore, the very gravity of charge disappears. At the same time, the applicant was required to be prompt in answering the queries or resubmitting the file. Keeping the file with him for weeks and months together cannot be countenanced. We are of the view that

a minor penalty of stoppage of two increments for two years would meet the ends of justice.

11. We, therefore, partly allow the O.A. and modify the order of punishment to the one of stoppage of two increments for two years without cumulative effect. The arrears payable on account of modification of the order shall be paid to the applicant in four quarterly instalments. Consequential benefits, if any, shall also be extended to the applicant. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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