

**Central Administrative Tribunal
Principal Bench**

OA No.572/2019

New Delhi, this the 9th day of July, 2019

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

Smt. Usha Kapoor
W/o Shri S.K. Kapoor
Aged about 66 years
R/o C-4/148, Yamuna Vihar
Delhi – 110053
Retired, ZRO, Group-B

...Applicant

(By Advocate: Shri A.K. Panwar)

Vs.

1. Delhi Jal Board through
Chief Executive Officer
Delhi Sarkar, Varunulaya
Phase II, Karol Bagh
New Delhi.
2. Member Administration
Delhi Jal Board
Delhi Sarkar, Varunulaya
Phase II, Karol Bagh
New Delhi.

...Respondents

(By Advocate: Shri Tarun Kumar)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicant joined the service of the Delhi Jal Board as LDC in the year 1972. She earned promotions

as UDC, Head Clerk, Office Superintendent; and finally as Zonal Revenue Officer (for short, ZRO). She retired from service on attaining the age of superannuation on 31.01.2013. One year thereafter, she was issued a Charge Memo dated 13.03.2014. It was alleged that one Shri Om Prakash, Beldar/Meter Reader failed to deposit the water charges collected by him between August, 2011 and April, 2012 and that the applicant failed to persuade him to deposit the amount.

2. In her reply, the applicant stated that it was only after she joined the duties as ZRO that the Head Clerk Shri S.K. Saini brought to her notice, the factum of default committed by Shri Om Prakash and soon thereafter she initiated steps by issuing the Memos, one after another. It is stated that on account of the steps taken by her, Mr. Om Prakash deposited a sum of Rs.3,03,844/- on 12.07.2012 and subsequently he deposited the entire amount.

3. Not satisfied with the explanation submitted by the applicant, the Disciplinary Authority appointed the Inquiry Officer. The charge against the applicant was held proved. Taking the same into account, the

Disciplinary Authority passed an order dated 07.08.2018, imposing the penalty of 20% cut in pension for a period of 10 years. The same is challenged in the OA.

4. The applicant contends that there was absolutely no substance in the charge, inasmuch as, the alleged failure to deposit the amount took place much before she joined the duty. She further contends that the prescribed procedure under Rule 9 of the CCS (Pension) Rules, 1972, was not followed and the entire proceedings are vitiated.

5. The respondents filed counter affidavit opposing the OA. It is stated that being the Head of Revenue Department in the Zone, the applicant was required to be cautious and to ensure that the amounts are deposited and that there was failure on her part. It is also stated that the relevant rules were amended to be in conformity with Rule 9 of CCS (Pension) Rules and no irregularity has taken place.

6. We heard Shri A.K. Panwar, learned counsel for applicant and Shri Tarun Kumar, learned counsel for respondents.

7. The applicant was issued a Charge Memo, after she retired from service. The Delhi Jal Board has adopted the CCS (Pension) Rules. The disciplinary proceedings in such cases need to be initiated, in accordance with Rule 9 of CCS (Pension) Rules. The President is conferred with the power to accord sanction in this behalf. The Service Rules of the Board were amended in such a way that the Chairman of the Delhi Jal Board is conferred with the powers, which are exercisable by the President. Though various contentions are urged in this behalf, we do not propose to deal with them in detail, having regard to the discussion in the ensuing paragraphs.

8. It is not in dispute that the applicant was promoted to the post of ZRO on 23.08.2011. In the Charge Memo, the only allegation against the applicant is that she failed to persuade the Meter Reader to deposit the amount collected by him from the customers. The charge reads as under :-

“ARTICLE of Charge

That Smt. Usha Kapoor, W/O Sh. S.K. Kapoor, While functioning as ZRO (NE) II during the year 2010 to 2011, has committed misconduct in as much as he failed to persuade Sh. Om Prakash,

Beldar/Meter Reader, to deposit the amount so collected by him as water charges dues w.e.f. Oct. 2010 to Aug, 2011 through G-8, receipts as details given here under .

S1. No.	G.8 Receipt Number	Date	Amount Rs.
1	262008 to 262011	16.10.2010	8736.00
2	262012 to 262069	25.10.2010 to.03.2011	303844.00
3	3262070 to 262084	31.03.2011 to 24.04.2012	99630.00
Total (Rupees four lacs twelve thousand two hundred ten only			4,12,210.00

9. There was not even a remote allegation that the applicant was anywhere responsible for the non deposit of the amount.

10. A perusal of the particulars in the Charge Memo discloses that it was referable to the period before the applicant was posted to the Zone. In her detailed explanation, the applicant stated that she was posted as ZRO, Seelampur on 23.08.2011. The statement of imputation discloses that only sum of Rs.25,000/- was collected after the applicant was transferred to Seelampur. The amount was deposited by the concerned employee in two instalments, namely, Rs.3,03,844/- on 12.07.2012 and Rs.99,630/- on 28.07.2012. Both the

deposits were, after the applicant assumed the charge as ZRO. It is just un-understandable as to what fault was there on the part of the applicant. On the other hand, it is on account of Memos issued by her, that the amount came to be deposited. The Disciplinary Authority, however, has proceeded mechanically and imposed the punishment.

11. We, therefore, allow the OA, setting aside the impugned order. The amounts withheld on the basis of the order of punishment, shall be released to the applicant, within two months, from the date of receipt of a certified copy of this order.

There shall be no order as to costs.

(Mohd. Jamshed)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

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