

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**O.A. No. 221/2015
With
O.A. No. 250/2015**

New Delhi, this the 3rd day of December, 2019



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

O.A. No. 221/2015

Jiwan Ram Gupta
 S/o Late Shri L.C. Gupta
 Aged 71 years
 R/o A-38D, DDA Flats
 Munirka, New Delhi-110067
 Retired Accounts Officer
 Delhi Development Authority
 Vikas Sadan, INA
 New Delhi-110023.

.. Applicant

(By Advocate : Shri Sewa Ram)

Versus

Delhi Development Authority
 Through : Secretary
 DDA Building, Vikas Sadan
 I.N.A., New Delhi-110023.

.. Respondent

(By Advocate : Ms. Sriparna Chatterjee)

O.A. No. 250/2015

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O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicant was employed in the Delhi Development Authority (DDA) as Accounts Officer and retired from service in February 2004, on attaining the age of superannuation. Proceedings under various provisions of Indian Penal Code were initiated by the CBI against him, alleging the crimes punishable under Section 419, 420 and 467 read with 120B of the IPC. In two such cases, he was convicted and was sentenced to undergo imprisonment, till rising of the Court. Taking the same



into account, the Disciplinary Authority (DA) issued Show Cause Notice to the applicant, requiring him to explain as to why the penalty of 20% cut on permanent basis in pension, be not imposed against him. On a consideration of the representation submitted by the applicant, the DA passed orders dated 11.09.2014 and 20.08.2014, imposing the penalty of 20% cut on permanent basis in the monthly pension of the applicant, separately. O.A. Nos. 221/2015 and 250/2015 are filed challenging the orders of penalty.

2. The applicant contends that the order of penalty was passed by the Finance Member of DDA and he does not have the competence to do so. Reliance is placed upon Rule 9 of the CCS (Pension) Rules, 1972 read with Notification dated 29.10.2007 issued by the Govt. of India in this behalf. The other contention raised by the applicant is that neither in the judgment of the Criminal Court nor in the order of the DA, there is any mention that he is guilty of grave misconduct or negligence in discharge of duties and, therefore, the orders of penalty are untenable.



3. Respondents filed counter affidavits opposing the O.As. It is stated that the CCS (Pension) Rules are applicable to the retired employees of the DDA and, accordingly, the procedure prescribed thereunder was followed. It is also stated that under Rule 9 of the CCS (Pension) Rules, powers of the DA were delegated to the Finance Member, DDA in respect of the employees, who retired from service.

4. We heard Shri Sewa Ram, learned counsel for the applicant and Ms. Sriparna Chatterjee, learned counsel for the respondents.

5. The applicant retired from service on 29.02.2004, on attaining the age of superannuation. He was facing the trial in criminal cases, while in service. Those cases, however, ended up in conviction and sentence, after he retired from service. In both the cases, the Trial Court sentenced him to undergo imprisonment till rising of the Court. It is on the basis of the judgment of the Trial Court in those cases, that the applicant was issued two separate Show Cause Notices, requiring him to explain as to why

the 20% cut on permanent basis be not imposed on him in the two cases, separately. The applicant submitted explanation to the notices. The penalty, as proposed, was imposed on him by the Finance Member, DDA.



6. Two aspects became relevant in this case. They are: (a) whether the order of punishment was passed by the Competent Authority; and (b) whether initiation of proceedings is in accordance with Rule 9 of the CCS (Pension) Rules.

7. Coming to the 1st aspect, the Rule 9 mandates that the power to impose penalty on a retired employee is vested with the President, in case of the members of the Central Civil Services. Since the Rules are adopted by the DDA, a Notification was issued on 29.10.2007, conferring the powers of the President on various Authorities. Distinction is maintained between the proceedings, which are initiated before the retirement of the employees, on the one hand, and those, after the retirement, on the other hand. In the 1st case, the power is conferred upon the respective DA under the DDA (Conduct, Disciplinary and

Appeal) Regulations. In the 2nd case, the power is conferred upon the Chairman, DDA.

8. The case in hand falls into the 2nd category. The penalty ought to have imposed by the Chairman. Instead, the same was imposed by the Finance Member. Therefore, the Authority, who passed the impugned orders, is not vested with the power.



9. Coming to the 2nd aspect, the disciplinary proceedings can be initiated against a retired employee, under Rule 9 of the CCS (Pension) Rules, only if there is an allegation of grave misconduct or negligence. The gravity of such misconduct can be evident from the judgment of the Criminal Court also. In the instant case, we do not come across any such finding.

10. Therefore, the OAs are allowed and the impugned orders are set aside. It is left open to the Competent Authority to take necessary steps, in accordance with law, and complete them within three months from the date of receipt of a certified copy of this order. Till such time, the respondents need not pay the differential amount to the

applicant, and much would depend upon the nature of the orders, which the respondents may pass. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)



/jyoti/

(Justice L. Narasimha Reddy)
Chairman