

**Central Administrative Tribunal
Principal Bench**



**OA No.3931/2018
MA No.3425/2019**

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

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

G.A. Arife, Group 'C', LDC
1269, Laxmi Bai Nagar,
New Delhi-23.

...Applicant

(In person)

Versus

Union of India

The Joint Secretary (Trg.) &
O/o J.S. & CAO (Trg.)
Chief Administrative Officer.
"E" Block, Dalhousie Road,
Ministry of Defence,
New Delhi-110011.

...Respondent

(By Advocate : Shri R.K. Sharma)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicant was appointed as LDC in the office of JS(Trg) & CAO, Ministry of Defence in the year 1983. She was issued a charge memo dated 29.05.2007. It was alleged that she remained unauthorisedly absent from duty with effect from 28.09.2006 and that she refused to



receive the communications, issued to her. The applicant, however, did not submit her explanation to the charge memo. The Disciplinary Authority appointed the Inquiry Officer on 24.08.2007. The report was submitted by the Inquiry Officer on 25.02.2008, holding that the charges are proved. A copy of the same was furnished to the applicant. She was also given an opportunity of personal hearing. Ultimately, the Disciplinary Authority passed order dated 09.10.2013, imposing the punishment of compulsory retirement. The same is challenged in this OA.

2. The applicant contends that the allegation made against her is not true and the so called absence was not unauthorised at all. It is also stated that she never refused to accept the communications. She further submits that she was not given an opportunity in the disciplinary inquiry and that the disciplinary proceedings are vitiated.

3. Respondents filed counter affidavit opposing the OA. It is stated that the disciplinary proceedings were initiated against the applicant on account of her unauthorised absence and other acts of misconduct. It is



stated that once the applicant did not submit her explanation to the charge memo, and once she did not participate in the disciplinary proceedings, there was no alternative except to hold the charges as proved. It is also stated that noticing that the behaviour and conduct of the applicant was not normal, she was required to appear before a Medical Board of the Ram Manohar Lohia Hospital, but she did not appear therein. It is further stated that the order of compulsory retirement was passed to ensure that the applicant is not deprived of pensionary benefits.

4. Heard the applicant, who argued the case in person and Shri R.K. Sharma, learned counsel for respondents and have perused the record.

5. The charges framed against the applicant contained two articles. They read as under :-

“Article I”

Ms. GA Arief, LDC, Army HQ refused to accept official communications addressed to her.

Article II

Ms GA Arief, LDC, Army HQ, is continuously absent from duty without prior permission/intimation in an



unauthorized manner w.e.f. 28.09.2006 till date.”

6. In case the applicant was of the view that she did not refuse to accept the official communication or that she was not unauthorisedly absent, she could have filed an explanation to the charges. However, for the reasons best known to her, she did not submit any explanation at all. Though the Disciplinary Authority could have passed an order straightway, he appointed the Inquiry Officer. The applicant was expected to appear in the disciplinary inquiry. There again, the applicant did not avail the opportunity and left with no alternative, the Inquiry Officer held the charges as proved.

7. The applicant was furnished a copy of the report of Inquiry Officer. No comments were offered by her. It is important to note that Disciplinary Authority was so considerate that he wanted to be sure as to whether the applicant is suffering from any illness or mental problem. He referred the applicant to Ram Manohar Lohia Hospital. However, the applicant did not appear before the Medical Board. Ultimately, the Disciplinary Authority passed an order dated 09.10.2013. It is beneficial to extract the same in its entirety. It reads as under :-



“ORDER”

WHEREAS, disciplinary proceedings were initiated under Rule-14 of the CCS (CC&A) Rules 1965 vide memorandum dated 29 May 2007 against Ms G A Arief, LDC for being unauthorisedly absent from her duty without prior intimation/permission with effect from 28 Sep 2006 and refusal to accept the official document.

AND WHEREAS, no representation was submitted against the memorandum by Ms GA Arief and Sh R A Sharma, Section Officer was appointed as Inquiry Officer vide order dt. 24 Aug 2007.

AND WHEREAS, the Inquiry Officer, in his Inquiry Report, had submitted that Ms GA Arief did not cooperate in the Inquiry proceedings despite being given many opportunities and the Inquiry was conducted ex-parte and the articles of charges were established from the documentary evidence in the Inquiry Report dt. 25 Feb 2008.

AND WHEREAS, a copy of the Inquiry Report was provided to Ms GA Arief vide memorandum dt. 18 Mar 2008 wherein MS GA Arief sought extension time to submit her representation against the Inquiry Report due to her pending Court cases, ill health and the mental trauma caused due to her daughter being diagnosed with brain tumor.

AND WHEREAS, Ms GA Arief was granted extension till 30 Apr 2008 but no representation was submitted by her. The Disciplinary Authority observed, during the personal hearing

granted to her, that her mental condition is not well.

AND WHEREAS, Ms GA Arief was advised vide letter dt. 31 Jul 2009 to report to Dr. R.M.L. Hospital before on Medical Board on 05 Aug 2009 for her medical examination. The Medical Board was also requested to confirm whether her mental disposition comes under the Persons with Disabilities Act 1995.

AND WHEREAS, it was confirmed by Dr.R.M.L. Hospital vide their letter dt. 15 Jun 2011 that Ms GA Arief did not appear before the Medical Board.

AND WHEREAS, Security Office/Special Police Staff and Police Station, Sarojini Nagar were requested to find whereabouts of Ms GA Arief and it was confirmed by them that her house was found locked on repeated visits.

AND WHEREAS, the undersigned having considered all the facts and circumstances of the case, available documents, Inquiry Report and non-appearance of Ms GA Arief before the Medical Board, have arrived at the conclusion that the charges levelled against Ms GA Arief in the memorandum dt. 29 May 2007 stand established.

NOW THEREFORE, the undersigned imposes the penalty of Compulsory Retirement on Ms GA Rief with immediate effect.”

8. This is not the case where the applicant was denied opportunity at various stages of the disciplinary





proceedings. It is she, that did not avail the same. Firstly, she did not submit an explanation to the charge memo. Secondly, she did not cooperate in the disciplinary inquiry. Thirdly, she did not submit her comments to the report of the Inquiry Officer and fourthly, she did not avail the opportunity of personal hearing. Reluctance on the part of the applicant is evident from the fact that she did not appear before the Medical Board also. The Disciplinary Authority had many options in the context of imposition of punishment. However, he has chosen the one which did not deprive the applicant, of the benefit of her service and imposed the penalty of compulsory retirement.

9. The applicant is not able to satisfy us that the proceedings suffered any legal infirmity. The lapses on her part in the context of submitting explanation to the charge memo, not cooperating in the inquiry or even failure to submit her comments to the inquiry report, are certainly, factors which cannot be ignored. In an establishment like Defence, indiscipline of this nature cannot be tolerated. Though the respondents wanted to give an opportunity to the applicant to rectify herself, the same was not availed.



10. Out of concern for the applicant, we wanted to verify whether she has been sanctioned any pension. It is brought to our notice that the applicant did not vacate the official accommodation for years together, nor did she cooperate in the context of preparing of the PPO. We cannot help the situation.

11. We do not find any merit in the OA and the same is, accordingly, dismissed.

Pending MAs, if any, stand disposed of.

There shall be no orders as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

'rk'