

**Central Administrative Tribunal
Principal Bench**

OA No.3105/2019

New Delhi, this the 21st day of October, 2019

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

Krishna Kumar Bohra @ K.K. Bohra,
Group 'A', Aged 60 years,
Retired Assistant Director (Program),
S/o Shri Satya Narain Bohra,
R/o F-1U/137, 2nd Floor,
Pitampura, Delhi-110034.

...Applicant

(By Advocate : Shri Asish Nischal)

Versus

1. Union of India,
Through its Secretary,
Ministry of Information and Broadcasting,
A Wing, Shastri Bhawan,
New Delhi-110001.
2. Prasar Bharti,
Through its Chief Executive Officer,
Prasar Bharti Secretariat,
Prasar Bharti House,
Copernicus Marg,
New Delhi-110001.
3. The Director General,
Doordarshan,
Doordarshan Bhawan,
Copernicus Marg,
New Delhi-110001.

...Respondents

(By Advocate : Shri Deepak Bhardwaj)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant retired as Assistant Director (Program) from the Doordarshan on 30.09.2019. Just before his retirement, he was issued a charge memo dated 23.09.2019, which contained five articles of charge, pertaining to his acts and omissions as Incharge of a Programme, "Dhenu Matram". It was alleged that he made excessive payments to various individuals and Agencies running to several lakhs. This OA is filed challenging the charge memo.

2. The applicant submits that initially, preliminary inquiry was conducted, and the officer who conducted it, reported that no irregularity has taken place; and the report was accepted by Director General, Doordarshan on 14.04.2018. It is stated that when the matter was addressed to the CVC, the latter tendered its advice for initiation of major penalty proceedings and accordingly the charge memo was issued. He submits that the copy of advice of CVC was not made available to him. He submits that though the proposal by the Department was for initiation of minor penalty proceedings, the charge

memo for major penalty proceedings was issued, just by acting upon the advice tendered by the CVC. Reliance is placed upon the letter dated 28.09.2000, issued by the CVC.

3. We heard Shri Ashish Nischal, learned counsel for applicant and Shri Deepak Bhardwaj, learned counsel for respondents.

4. The challenge in this OA is to the charge memo. The articles of charges contained in the charge memo read as under :-

**“STATEMENT OF ARTICLES OF CHARGES
FRAMED AGAINST SHRI K.K. BOHRA,
ASSISTANT DIRECTOR (PROGRAMME),
DOORDARSHAN KENDRA, JAIPUR**

ARTICLE-I

Shri K.K. Bohra, Assistant Director (Prog), DDK Jaipur while functioning as Programme Executive, DDK Jaipur and Incharge of Programme “Dhenu Matram” was associated with the production of the said programme from February, 2015 to March, 2015. Shri K.K. Bohra made excess payments amounting to Rs.3,45,000/- to Production Managers in violation of Clause 5.7 of Doordarshan Fee Rate Card which resulted in undue financial gains to others and corresponding loss to organization.

By the above said acts, Shri K.K. Bohra, Assistant Director (Programme), DDK Jaipur failed to maintain absolute integrity, failed to maintain devotion to duty, acted in a manner unbecoming of a Government servant, failed to refrain from doing anything which is or may be contrary to any law, rules, regulations and

established practices, failed to perform and discharge his duties with the highest degree of professionalism and dedication to the best of his abilities, thereby violating Rule 3(1)(i), 3(1)(ii), 3(1)(iii), 3(1) (xviii) and 3(1)(xxi) of Central Civil Services (Conduct) Rules, 1964.

ARTICLE- II

Shri K.K. Bohra, Assistant Director (Prog.), DDK Jaipur while functioning as Programme Executive, DDK Jaipur and Incharge of Programme "Dhenu Matram" was associated with the production of the said programme from February, 2015 to March, 2015. Shri K.K. Bohra booked and made payments amounting to Rs.8,63,235/- to unauthorized casuals in violation of Clause 4.6.2, 4.6.3, 4.6.4, 4.6.5 of Doordarshan Manual and also in violation of Rule 137 of GFR which resulted in undue financial gain to others, depriving entitled persons of due benefit, blatant violation of systems and procedures.

By the above said acts Shri K.K. Bohra, Assistant Director (Programme), DDK Jaipur failed to maintain absolute integrity, failed to maintain devotion to duty, acted in a manner unbecoming of a Government servant, failed to promote the principles of merit, fairness and impartiality in the discharge of duties, failed to refrain from doing anything which is contrary to any law, rules, regulations and established practices, failed to perform and discharge his duties with the highest degree of professionalism and dedication and to the best of his abilities thereby violating Rule 3(1)(i), 3(1)(ii), 3(1)(iii), 3(1)(viii), 3(1)(xviii) and 3(1)(xxi) of Central Civil Services (Conduct) Rules, 1964.

ARTICLE-III

Shri K.K. Bohra, Assistant Director (Prog), DDK Jaipur while functioning as Programme Executive, DDK Jaipur and Incharge of Programme "Dhenu Matram" was associated with the production of the said programme from February 2015 to March 2015. Shri K.K. Bohra, made payments to same persons for different assignments on the same day and also on different days which resulted in undue financial gain to others, depriving entitled persons of due benefit and blatant violation of systems and procedures.

By the above said acts, Shri K.K. Bohra, Assistant Director (Programme), DDK Jaipur failed to maintain absolute integrity, failed to maintain devotion to duty, acted in a manner unbecoming of a Government servant, failed to promote the principles of merit, fairness and impartiality in the discharge of duties, failed to make choices, take decisions and make recommendations on merit alone, failed to refrain from doing anything which is contrary to any law, rules, regulations and established practices, failed to perform and discharge his duties with the highest degree of professionalism and dedication and to the best of his abilities thereby violating Rule 3(1)(i), 3(1)(ii), 3(1)(iii), 3(1)(viii), 3(1)(xviii) and 3(1)(xxi) of Central Civil Services (Conduct) Rules, 1964.

ARTICLE-IV

Shri K.K. Bohra, Assistant Director (Prog), DDK Jaipur while functioning as Programme Executive, DDK Jaipur and Incharge of Programme "Dhenu Matram" was associated with the production of the said programme from February, 2015 to March 2015. Shri K.K. Bohra made unauthorized payment of TA amounting to Rs.1,33,785/- to casuals resulting in undue financial gain to others, corresponding loss to organization and violation of systems and procedures.

By the above said acts, Shri K.K. Bohra, Assistant Director (Programme), DDK Jaipur failed to maintain absolute integrity, failed to maintain devotion to duty, acted in a manner unbecoming of a Government servant, failed to refrain from doing anything which is contrary to any law, rules, regulations and established practices, failed to perform and discharge his duties with the highest degree of professionalism and dedication and to the best of his abilities thereby violating Rule 3(1)(i), 3(1)(ii), 3(1)(iii), 3(1)(xviii) and 3(1)(xxi) of Central Civil Services (Conduct) Rules, 1964.

ARTICLE-V

Shri K.K. Bohra, Assistant Director (Prog), DDK Jaipur while functioning as Programme Executive, DDK Jaipur and Incharge of Programme "Dhenu Matram" was associated with the production of the said programme from February, 2015 to March 2015. Shri K.K. Bohra made bookings without issuing of contracts and without receipt of acceptance in

advance in violation of Clause 4.8.1 and Clause 4.8.3 of DD Manual.

By the above said acts, Shri K.K. Bohra, Assistant Director (Programme), DDK Jaipur failed to maintain absolute integrity, failed to maintain devotion to duty, acted in a manner unbecoming of a Government servant, failed to refrain from doing anything which is contrary to any law, rules, regulations and established practices, failed to perform and discharge his duties with the highest degree of professionalism and dedication and to the best of his abilities thereby violating Rule 3(1)(i), 3(1)(ii), 3(1)(iii), 3(1)(xviii) and 3(1)(xxi) of Central Civil Services (Conduct) Rules, 1964.”

5. It is not the case of the applicant that the authority who issued the charge memo is not vested with the power to issue it, or that the proceedings are contrary to any particular provision of law. The attack is mostly on the ground that the preliminary inquiry ended in his favour. Assuming it to be true, the law as it stands now, requires the department to take the opinion of the CVC. Accordingly, a letter was addressed. In response to that, the CVC advised for initiation of major penalty disciplinary proceedings. The Doordarshan in turn issued the charge memo.

6. Assuming that the proposal by the Doordarshan was for initiation of minor penalty proceedings, it is difficult to interfere with the charge memo, only on the ground that it is for major penalty proceedings. What

transpired the Doordarshan on the one hand and the CVC on the other, cannot be a matter of scrutiny at this stage. Much would depend upon the nature of material and evidence which is at the disposal of the Disciplinary Authority, for proving the charges.

7. Another contention advanced by the learned counsel for applicant is that according to the letter dated 28.09.2000 addressed by the CVC, the advice tendered at first stage shall be enclosed to the charge memo and since a copy of such an advice was not enclosed to the charge memo, the proceedings are vitiated. It is too difficult to accept this contention. If the advice tendered by the CVC is not enclosed to the charge sheet, the applicant can insist on it being furnished. The proceedings cannot be declared as a nullity.

8. Reliance is placed upon the order passed by this Bench in OA No.237/2008 dated 20.04.2019 in **Vipul Raj Vs. ICAR**. That was a case in which the disciplinary proceedings initiated against the employee resulted in imposition of punishment of removal from service. One of the grounds urged therein was that neither the first stage advice, nor the 2nd stage advice of the CVC was

made available to the applicant therein. Taking note of the letter dated 28.09.2000 and the judgment of Hon'ble High Court of Karnataka, the Tribunal set aside the order of punishment, but left it open to the respondents to take further steps after supplying copies of the CVC advice. In the instant case, the proceedings are at the initial stage. No progress has taken place, much less, punishment was imposed.

9. Therefore, we dismiss the OA, however, with a direction that the respondents shall supply a copy of the first stage advice received by them from the CVC to the applicant within a period of 15 days from the date of receipt of a certified copy of this order.

There shall be no orders as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L.Narasimha Reddy)
Chairman

'rk'