

(2013) 05 DEL CK 0275
In the Delhi High Court
Case No : Writ Petition (C) 3305 of 2013

Sh. Moti Ram Sharma

APPELLANT

Vs

Delhi Development Authority and Others

RESPONDENT

Date of Decision : 20-05-2013

Acts Referred:

Citation : (2013) 05 DEL CK 0275

Hon'ble Judges : V. Kameswar Rao, J;Pradeep Nandrajog, J

Bench : Division Bench

Advocate : Lalita Prasad, for the Appellant;

Final Decision : Dismissed

Judgement

Pradeep Nandrajog, J.—On March 11, 2005, charge memo was issued against the petitioner alleging 6 charges. The substance of the

charges are preparing and recommending bills to be passed for release of payment on account of watch and ward service amounting to Rs.

2,77,376/- pertaining to the period 1998-2000 and relating to two projects. Inquiry Officer was appointed who opined that charges No. 1 to 5

were not proved. Charge No. 6 was held to be proved. Disciplinary Authority disagreed with the findings of the Inquiry Officer pertaining to the

charge No. 1, 2 & 5 and issuing a note of disagreement containing prima-facie reason to disagree with the report of Inquiry Officer and swerving

the same as also supplying the enquiry report to the petitioner, considered his response.

2. Vide Order dated June 25, 2008, the disciplinary authority levied a penalty of reducing petitioner's pay by two stages for a period of one year

with cumulative effect which was reduced by the Appellate Authority by one

stage for six months with future effect.

3. Petitioner proceeded before the Central Administrative Tribunal and raised three pleas. Firstly that he was discriminated against viz-a-viz the

penalty inasmuch as Sh. A.K. Bandula, working as a Assistant Engineer was levied with a penalty of censure. Second plea urged was that

petitioner acted under bona fide instructions of superior officer. Lastly petitioner pleaded that initiating the disciplinary proceedings in the year 2005

pertaining to his acts relating to the year 1998-2000 was a belated initiation of the proceedings.

4. Suffice would it be to state that the petitioner did not question the indictment as such.

5. As regards the first plea, the Tribunal has held that different roles played by different persons would attract different penalties. Suffice would it

be to state that the author of the bills was the petitioner. Qua, A.K. Bandula gravamen of the charge was lack of supervisory duties. This explains

Mr. A.K. Bandula being levied a lesser penalty. We find no discrimination.

6. On the plea that he acted bona fide under the instructions of superior officer, suffice would it be to state that no witness was cross examined in

this line of defence. The plea is a mere attempt to clutch on to straw. The Tribunal has rightly rejected the same.

7. As regard delay, law is clear. Unless delay in initiating disciplinary proceedings is proved to have caused prejudice in the form of either

documentary evidence being lost or witnesses not being available, mere delay by itself would not be suffice to quash the disciplinary proceedings.

The writ petition is accordingly dismissed with no order as to costs.