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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 12.11.2025

+ W.P.(C) 5026/2024 & CM APPL. 20547/2024
DELHI DEVELOPMENT AUTHORITYPetitioner
Through: Mr.Arun Birbal, Adv.
versus

DEEPAK JAINRespondent
Through: Mr.M. K. Bhardwaj and
Mr.Praveen Kaushik, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioner, challenging the Order dated 05.03.2021 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the, 'Tribunal') in O.A.No.3656/2017, titled *Deepak Jain, EE (Civil), Group 'A' v. Delhi Development Authority & Anr.*, whereby the learned Tribunal allowed the said O.A. filed by the respondent herein, and set aside the Charge Memo dated 09.08.2017, issued against the respondent.

2. The petitioner further challenges the Order dated 31.01.2023 passed by the learned Tribunal in R.A. No. 11/2022 in the aforesaid O.A., by which the learned Tribunal was pleased to dismiss the Review Application filed by the petitioner herein as being not maintainable.



3. The petitioner issued a Charge Memo dated 09.08.2017 to the respondent, containing the following charges:

“ARTICLE- 1.

That the said Sh. Deepak Jain, EE while functioning as JE/SED-8, allowed the execution of substandard quality of RCC work for various RCC members as is evident from the report of M/s National Council of Cement and Building Material (NCCBM) engaged for the purpose of distress assessment of these flats.

ARTICLE-2.

That the said Sh. Deepak Jain, EE, while functioning as JE/SED-8, failed to ensure that adequate clear cover is provided to reinforcing steel bars which resulted in rusting and corrosion of steel and cracking of concrete.

Sh. Deepak Jain, EE (the then JE/ SED-8/DDA) by his above acts, exhibited grave dereliction of duty, failed to maintain absolute integrity and behaved in a manner unbecoming of an employee of the Authority thereby, violating sub-rule 1 (I) & 1 (III) of Regulation - 4 of the DDA Conduct, Disciplinary and Appeal Regulations, 1999.”

4. The petitioner has alleged that the respondent, while serving as Junior Engineer/SED-8, allowed the execution of sub-standard quality of RCC work for various RCC members, as was evident from the report of the M/s National Council for Cement and Building Materials (NCCBM), which had been engaged by the petitioner to conduct a distress assessment of the flats that had been constructed by the petitioner at Dwarka.

5. It is further alleged that the respondent had failed to ensure that an adequate clear cover had been provided to reinforce steel bars,



SFS houses by DDA between 1998 and 2001 and as a result, the said structures had shown structural stress.

5. *We are in agreement with the view expressed by the CAT that the delay is a question of fact to be decided on the facts of each case.*

6. *In the present matter, CAT was satisfied with DDA's explanation that the Charge Memo was delayed as the flats had remained vacant for a long time awaiting water and electricity connections and as soon as the flats were allotted, the allottees complained about major structural defects. Thereafter, the defects were removed and it was decided that the persons who were responsible shall be identified.*

7. *It was only after the preliminary inquiry was completed that the disciplinary authority had issued the Charge Memo to the petitioner. Consequently, delay in the present case, if any, at this threshold stage of the inquiry, does not absolve the petitioner of the charge of lack of supervision and care.*

8. *In any event, houses are not meant to last for a short period of fifteen to twenty years. The stairs, roofs and balconies of the houses, which had to be extensively dismantled/recast/repared/rectified in the present case, were meant to last for a very long period, if not a life-time."*

8. He submits that, unfortunately, these orders could not be brought to the notice of the learned Tribunal when the O.A. was heard and decided on 05.03.2021. Pursuant to the liberty granted by this Court, the Review Application was filed by the petitioner before the learned Tribunal, however, the same was rejected without considering the effect of these orders.

9. On the other hand, the learned counsel for the respondent places



reliance on a host of Judgments, including the Judgment of Supreme Court in *State of A. P. v. N. Radhakishan*, (1998) 4 SCC 154, and the Judgment of this Court in *P. K. Mathur v. Union of India & Anr.*, 2008:DHC:1851-DB, to contend that the delay in issuing the Charge Sheet is fatal to the disciplinary proceedings as it causes prejudice to the respondent in presenting his defence.

10. We have considered the submissions made by the learned counsels for the parties.

11. In the present case, the learned Tribunal has clearly erred in not noticing that similar Charge Memos issued against other officers have been upheld and, in fact, a challenge to the same has been rejected by this Court in *Vijay Kumar Saluja* (supra). The observations of the Coordinate Bench of this Court clearly explain why the delay could not have been the sole ground for setting aside the Charge Memos.

12. The allegation in the Charge Memo issued against the respondent is that due to his conduct in not properly supervising the construction of the flats that had been got constructed by the petitioner in the Dwarka project, the said flats had developed cracks within only a few years of their occupation. These defects came to light only on the occupation of the flats, and the fact that they had been constructed in a poor manner could be certified only on receipt of the report from the NCCBM.

13. This Court, taking note of these facts, in *Vijay Kumar Saluja* (supra) has rejected the plea of delay in the issuance of the Charge Memo. We, being bound by the same and finding no reason to differ with the same, set aside the Impugned Order passed by the learned

