



2025:DHC:11356-DB



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

Date of decision: 12.12.2025

+ **W.P.(C) 8396/2023**

SANJAY GUPTA

.....Petitioner

Through: Mr.Rajeev Sharma, Adv.

versus

LT GOVERNOR OF DELHI & ANR.

.....Respondents

Through: Mr.Ashutosh Gupta, ASC
(through VC)

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. The present petition has been filed challenging the Order dated 23.12.2022 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'Tribunal') in O.A. No.3351/2019, titled *Shri Sanjay Gupta ALO v. Lt. Governor of Delhi & Anr.*, whereby the O.A. filed by the petitioner herein was dismissed.

2. The petitioner had filed the aforesaid O.A. assailing the Order dated 13.09.2018 passed by the Disciplinary Authority, whereby the penalty of '*reduction of pay in the time scale by three stages for three years with cumulative effect*' was imposed upon him. The petitioner had further challenged the Order dated 18.04.2019, by which the



appeal preferred by the petitioner against the penalty order was dismissed by the Appellate Authority.

3. The petitioner was proceeded against departmentally on the following Charges:

"1. He failed to process the case of Sh. S. P Tanwar, AE timely due to which charge sheet could not be issued to him before his retirement on 31.03.2013.

2. He even after receiving back the said RDA file from East DMC on 11.4.2013 did not make any sincere efforts to place the preamble before the Corporation/Disciplinary Authority for getting approved charge sheet of Shri S.P. Tanwar, AE (Retd.) before 21.6.2013 i.e. the date after which the case became time barred."

4. In the statement of allegations, which formed the basis for framing the Charges, it was stated as under:

"Statement of allegations on the basis of which charges have been framed against Sh. Sanjay Gupta S/o Sh. Om Parkash Gupta, Asstt. Law Officer, BMID No. 10048546 North DMC.

"Shri Sanjay Gupta was working as Assistant Law Officer, Vigilance Department of SDMC during the year 2013. He was duty bound take immediate and prompt action in the RDA case files Department and ensure that charge sheet must be issued upon the concerned charged official before his retirement or before it becomes time barred under the relevant law.

Vigilance Department, EDMC concluded an investigation relating to unauthorized construction carried out in Kalyan Cinema site



i.e. Khasra No. 1/148, Chauhan Bangar, Shahdara North Zone. On 18.01.2013, Commissioner, EDMC ordered to initiate Major Penalty Proceedings against S/Sh. Manoj Kumar Meena, JE, S.P. Tanwar and Roshan Lal, AES. All the three Engineers were working in SDMC and therefore, Vigilance Department, EDMC referred the matter to DOV/SDMC for further course of action.

The file was received in Vig. Deptt., SDMC on 5.3.2013 alongwith draft charge sheet of the charged officials working in SDMC. The file was marked by Director (Vig.) to D.L.Q (Vig)/SDMC to examine and put up and he further marked it to Shri Sanjay Gupta, A.L.O. (Vig.) on 6.3.2013.

Shri Sanjay Gupta instead of putting up the matter before the Commissioner, South DMC for obtaining the approval/concurrence regarding initiation of Major Penalty proceedings as ordered by Commissioner, East DMC sent back the RDA case file. of said C OS to DOV /East DMC on 11.3.2013 with query to give the status of P.G.C. case and also to place on record the bio data of 03 C.Os in the file whereas as per the statement of Shri. S.P. Tanwar, AE recorded during the investigation which was available in the file, it was quite evident that he was going to retire from municipal services after attaining the age of superannuation on 31.03.2013. The query with respect to P.G.C. case as raised by Shri Gupta, A.L.O was also unwarranted as it was very much on the record/noting of file that this case was being contested by Vig. Deptt., East DMC as the Director (Vig.)/East DMC had directed concerned officer/official to submit the status report to PG.C. before the next date



of hearing i.e. 30.01.2013 and South DMC had no role in this regard at that relevant point of time. When the said file returned back from Director (Vig.). East DMC on 11.04.2013, at that time Shri S.P. Tanwar, AE had already retired from municipal service on 31.03.2013. The charges Sh. S.P. Tanwar, AE were related to the misconduct committed during the period from 13.10.2008. to 22.06.2009 and as such after his retirement, charge sheet could have been issued to him only upto 21.06.2013 as per relevant rules but Sh. Sanjay Gupta with his ulterior motive to give safe exit to C.O. Sh. S.P. Tanwar, AE (Retd.) didn't

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bring the facts in the notice of the superior authorities and took no initiative to avoid the case being time barred but on the contrary diverted the case to EDMC. Even after receiving the RDA file back from East DMC on 11.4.2013, Shri Sanjay Gupta, A.L.O again did not take and sincere efforts to get approved charge sheet upon Shri S.P. Tanwar, AE (Retd.) before 21.06.2013 by way of placing preamble before Corporation/Disciplinary Authority as a result of which Shri S. P. Tanwar, AE got retired from municipal services without initiation of major penalty proceedings against him. However, charge sheet in respect of two other C.Os were issued.”

5. The Inquiry Officer, in his report dated 18.05.2018, recorded that although the petitioner had rightly processed the file, it was not understood as to why he forwarded the file to the Department of



Vigilance/EDMC for obtaining the bio-data, instead of the Engineering Department, SDMC. The Inquiry Officer, therefore, held Charge No.1 to be partly proved.

6. As far as Charge No.2 was concerned, the Inquiry Officer held that since the petitioner had failed to produce any concrete evidence in his defence, the said Charge stood fully proved against him.

7. Based on the Inquiry Report and after considering the reply submitted by the petitioner, the Disciplinary Authority imposed the aforesaid penalty, and the appeal preferred by the petitioner was also dismissed.

8. The learned counsel for the petitioner submits that it is the petitioner's case that he had rightly forwarded the file to the Department of Vigilance/EDMC for obtaining the bio data of Shri S.P. Tanwar, AE, as the same was a mandatory requirement for issuance of a charge sheet against the said officer. Without prejudice, he submits that, even otherwise, this aspect did not form part of the charge framed against the petitioner. He further submits that, therefore, once the Inquiry Officer had found that the petitioner had rightly processed the file, he could not have, on the basis of extraneous considerations, concluded that Charge No.1 was partly proved against the petitioner.

9. With regard to Charge No.2, the learned counsel for the petitioner submits that except for a bald conclusion that the charges stood proved, there is no discussion in the Inquiry Report disclosing the basis on which such conclusion was arrived at. He submits that this lack of reasoning is further evident from the fact that on an



identical Charge against Shri R.S. Yadav, Deputy Law Officer, who was an officer senior in rank to the petitioner, the Inquiry Officer held the Charge to be not proved against him. He submits that this clearly demonstrates that the finding against the petitioner is a case of no evidence.

10. He further contends that the learned Tribunal has dismissed the O.A. filed by the petitioner in a cursory manner, without properly appreciating the aforesaid submissions.

11. On the other hand, the learned counsel for the respondents submits that the scope of judicial review in respect of departmental proceedings is highly circumscribed and interference can be justified only in cases of procedural irregularity, non-compliance with mandatory rules, or violation of the principles of natural justice. He submits that the Court, in exercise of such jurisdiction, does not act as an Appellate Authority to re-appreciate evidence or to reach its own conclusions. He places reliance on the Judgment of the Supreme Court in *The State of Karnataka & Anr. v. Umesh*, (2022) 6 SCC 563.

12. He submits that, in the present case, the Inquiry Officer duly appreciated the evidence on record and concluded that the petitioner had wrongly forwarded the file to the Department of Vigilance/EDMC, whereas it ought to have been forwarded to the Engineering Department, SDMC, which would have supplied the bio data of Shri S.P. Tanwar in time, enabling issuance of the charge sheet prior to his retirement.

13. He further submits that, insofar as Charge No.2 is concerned,



the petitioner, being fully aware of the impending retirement of Shri S.P. Tanwar and the consequent bar of limitation for issuance of the charge sheet, intentionally delayed the process of forwarding the file to the Corporation, thereby facilitating the lapse of proceedings. He submits that these findings, being based on appreciation of evidence, do not warrant interference by this Court.

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

15. We are conscious of the limited jurisdiction vested in us under Article 226 of the Constitution of India while exercising the powers of judicial review of a disciplinary proceeding. In *Umesh* (supra), the Supreme Court has delineated the contours of such jurisdiction as under:

“17. In the exercise of judicial review, the Court does not act as an appellate forum over the findings of the disciplinary authority. The court does not re-appreciate the evidence on the basis of which the finding of misconduct has been arrived at in the course of a disciplinary enquiry. The Court in the exercise of judicial review must restrict its review to determine whether: (i) the rules of natural justice have been complied with; (ii) the finding of misconduct is based on some evidence; (iii) the statutory rules governing the conduct of the disciplinary enquiry have been observed; and (iv) whether the findings of the disciplinary authority suffer from perversity; and (vi) the penalty is disproportionate to the proven misconduct.”

16. In the present case, the Charges on the basis of which the



petitioner was proceeded against have already been reproduced hereinabove.

17. Charge No.1 alleged that the petitioner failed to process the case of Shri S.P. Tanwar in a timely manner, resulting in non-issuance of the charge sheet prior to his retirement on 31.03.2013. The Charge did not allege that the petitioner had wrongly forwarded the file to the Department of Vigilance/EDMC for obtaining the bio data of Shri S.P. Tanwar. During the inquiry proceedings, the Inquiry Officer categorically accepted that the bio data was an essential document for issuance of a charge sheet and that the same had not been forwarded to the petitioner with the initial requisition. The petitioner, therefore, acted correctly in seeking the same. The Inquiry Officer, in fact, concluded that the charge alleging delay on the part of the petitioner stood disproved and that the file had been rightly processed by him.

18. As noted above, the Charge did not relate to the forwarding of the file by the petitioner to the Department of Vigilance/EDMC but on that the information sought by the petitioner was already available on the file. Once this stood disproved, the finding of the Inquiry Officer was, therefore, extraneous to the Charge framed against the petitioner.

19. We may also note that the petitioner had explained that the file had been received by him from the Department of Vigilance/EDMC and the bio data was in the possession of the said department, and therefore, the petitioner had rightly forwarded the requisition for the bio data to the said department. We find that the Inquiry Officer has



not considered this defence of the petitioner at all.

20. Be that as it may, once it is evident that the Inquiry Officer has found the petitioner guilty of a Charge which was not even framed against him, the inquiry report, to that extent, cannot be sustained and is liable to be set aside.

21. Coming to Charge No. 2, the Inquiry Officer, in his report, observed as under:-

“It has come on record through exhibited documents that the Vig. Deptt. /EDMC has not specifically been mentioned the date of retirement of Shri S.P.Tanwar, AE in the noting. It has nowhere been mentioned that Shri S.P.Tanwar, AE is going to retire on 31.03.2013. When the file was returned from DOV/EDMC on 11.04.2013 it was not mentioned that Shri S.P.Tanwar, AE has already retired. But as per the statement of Shri S.P. Tanwar, As recorded during the investigation, the date of retirement has been mentioned as 31.03.2013 which is on record and exhibited as Ex.S-5. The said situation arose because the bio data proforma of all the three C.Os was not on record. As has already been discussed above while discussing the charge No.1 that the C.O. Shri Sanjay Gupta, ALO had rightly processed the file but in wrung direction. If the C.O. Shri Sanjay Gupta, ALO had forwarded the file to Engg. Deptt /SDMC to have the bio data of the three C.Os, such a situation could have been avoided. The C.O. has sent various letters to ADC/Engg. SDMC at a later stage.

From the above, it is clear that the file was received back from EDMC on 11.04.2013, even after 11.04.2013 the C.O. has sufficient time to proceed against Sh. S. P. Tanwar. However, from the documents submitted, deposition of witnesses and written argument filled by both the side it is clearly established



that no efforts has been made by the CO. Shri Sanjay Gupta, ALO and despite the fact that he has sufficient time between 11.04.2013 to 21.06.2013, when the chargesheet file against Shri S.P.Tanwar, received back and became time barred under Rule 9 of CCS (Pension) Rules, 1972.

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The C.O. failed to produce any concrete evidence in his defence. Hence, this part of the charge which is charge No.2 is "fully proved against the C.O:"

22. From a reading of the above finding, it would be evident that the Inquiry Officer has brushed aside the defence of the petitioner by observing that ‘the C.O. failed to produce any concrete evidence in defence.’ The finding is, therefore, without reasons and non-speaking in nature. The same infirmity continued at the appellate stage.

23. This is, therefore, a case where the petitioner has been held guilty of Charges that were never framed against him and where his defence has been brushed aside by a non-speaking order, in clear violation of the principles of natural justice. The matter squarely falls within the limited exceptions carved out by the Supreme Court in ***Umesh*** (supra).

24. We find that the learned Tribunal has dismissed the O.A. in a cursory manner, merely reiterating settled principles of law, however, without appreciating the fundamental infirmities in the inquiry proceedings.

25. We, therefore, have no option but to set aside the impugned penalty Order dated 17.09.2018, the appellate Order dated 18.04.2019



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dismissing the appeal of the petitioner, as well as the Order dated 23.12.2022 passed by the learned Tribunal.

26. The petitioner shall be released the consequential benefits of this order within a period of eight weeks from today.

27. The petition is allowed in the above terms.

28. There shall be no order as to costs.

NAVIN CHAWLA, J

MADHU JAIN, J

DECEMBER 12, 2025/ns/dk