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Item No. 49 (C-2)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 734/2016

This the 17th day of August, 2026

Hon'ble Mr. R. N. Singh, Member (J)
Hon'ble Shri B. Anand, Member (A)

Shri Mahesh Kumar,
Aged 61 years
S/o Shri Prahlad Singh,
R/o House No. 8, Block K-II,
Amrita Public School Wali Gali,
Sangam Vihar,
New Delhi-110080
Post : Jr. Engineer (E&M)

... Applicant

(By Advocate: Mr. Shubham Bahl)

Versus

Delhi Jal Board,
Govt. ofN.C.T. of Delhi
Through its Chief Executive Officer,
Varunalaya, Phase-II,
Karol Bagh,
New Delhi - 110005

.... Respondent

(By Advocate: Mr. Vishwendra Verma)

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Item No. 49 (C-2)

O R D E R (ORAL)

Hon'ble Shri B. Anand, Member (A)

The present Original Application has been filed by the applicant under Section 19 of AT Act, 1985, seeking the following relief(s):-

> *"(i) To set aside the impugned Order No. 346 dated 07.10.2015 of the Appellate Authority of the respondent DJB whereby the Appellate Authority has rejected the appeal of the applicant against Order No. 261 dated 23.07.2014, whereby the penalty of "Dismissal from service, which shall ordinarily be a disqualification for future employment under the Government" is imposed upon the applicant;*
>
> *(ii) issue an appropriate order or direction thereby directing the Respondent to treat the Applicant in service till the date of superannuation with all the consequential benefits thereof including arrears of salary, retiral dues, pension, etc.*
>
> *(iii) allow the present Original Application with costs in favour of the applicant; and*
>
> *(iv) pass any such other or further order (s) as this Hon'ble Tribunal may deem fit and appropriate in favour of the applicant."*

2. Brief factual matrix of the case is that the applicant initially joined the Delhi Development Authority (DDA) as a Work Assistant and served in that capacity between the years 1982 and 1988. He was, thereafter, transferred to the Delhi Jal Board in May 1988 and was subsequently promoted to the post of Junior Engineer (E & M) in 1993. In the year 2008, the applicant sought permission from the respondent to pursue a B.Tech (Mech) course. After completing the said course and rejoining the Delhi Jal Board, he was served with a memorandum dated

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06.05.2013, whereby the respondent proposed to hold a disciplinary inquiry against him on the allegation that he had submitted a bogus diploma purportedly issued by an institution in Hathras (Aligarh).

3. In response to the said memorandum, the applicant sought certain documents which, according to him, were necessary for effectively defending himself. However, the respondent did not accede to his request or furnish the additional documents sought by him. An Inquiry Officer was, thereafter, appointed, who conducted the inquiry and submitted his report on 27.06.2014, holding the charges leveled against the applicant to be proved.

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4. While the inquiry proceedings against the applicant were going on, the applicant wrote a letter to the Inquiry Officer stating that the Inquiry Officer is working as a Vigilance office instead of Inquiry Officer and frightening him repeatedly. He stated that on each date before he reaches, the Inquiry Officer, use to call the witnesses and using his own way of inquiry in a manner contrary to rules and instructions. Therefore, he lost his confidence in him and believed no justice would be done. He requested the Inquiry Officer to send back his file to the concerned officer so that another Inquiry Officer could be appointed. He also wrote a letter to the disciplinary authority requesting for

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change of that Inquiry Officer. However, neither the Inquiry Officer nor the disciplinary authority passed any order on the request of the applicant to change the Inquiry Officer and they went ahead with the disciplinary proceedings and concluded the inquiry and based on the Inquiry Officer's report, the charges were held proved. The disciplinary authority had passed the penalty of dismissal from service, which shall ordinarily be disqualification for future employment under the Government. The applicant herein filed an appeal against the said orders of penalty of the disciplinary authority to the appellate authority on 22.08.2014, wherein again he had taken the same ground that the Inquiry Officer was biased and acted as an agent of the management and he had sought a change of the Inquiry Officer. The appellate authority; however, in a cryptic manner, without considering the grounds stated by the applicant in his appeal, passed the impugned order dated 07.10.2015, confirming the order of the disciplinary authority. Aggrieved by the order of the appellate authority, the applicant herein has filed this OA.

5. Learned counsel for the applicant states that the action of the respondent is pressing ahead with the inquiry without addressing his fundamental objection seeking change of the Inquiry Officer on the ground of bias by the

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Inquiry Officer is directly in violation of the DOP&T OM dated 09.11.1972. Para 4 of the DOP&T OM dated 09.11.1972 reads as under:-

> *"4. It has accordingly been decided that whenever an application is moved by a Government Servant against whom disciplinary proceedings are initiated under the CCS (CA) Rules against the inquiry officer on grounds of bias, the proceedings should be stayed and the application referred, alongwith the relevant material, to the appropriate reviewing authority for considering the application and passing appropriate orders thereon. It has also been decided to reemphasize to all Ministries/Departments the following instructions contained in paragraph 5 of M.H.A. O.M. No. 39/40/52-Est, dated 4th October, 1952, on this subject to expeditious and better disposal of departmental proceedings against Government Servants:-*
>
> *i) In each Ministry or Department specified officer or officers of appropriate rank shall be nominated and earmarked for the purpose of conducting all the departmental inquiries arising within that Ministry/Department.*
> *ii) As soon as occasion arises for taking up such an inquiry, the nominated officer will be relieved of his normal duties to such extent as may be necessary to enable him to devote full and careful attention to the completion of the enquiries and the submission of his report. During this time the work of which the officer is relieved may be distributed amongst other officers."*

6. The second ground taken by the applicant, besides others, to challenge the impugned order is that the respondents have treated another employee, one Sh. Jasveer Singh, involving similar allegations, differently and let him off with the punishment of compulsory retirement by order no. 364 dated 09.11.2015, whereas, in the case of the applicant, the punishment of dismissal from service has been imposed upon the applicant. Learned counsel for the applicant states that such arbitrary treatment of two different individuals working with the same organization

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being punished in a different manner is discriminatory and in violation of Article 14 of the Constitution of India and in this regard, relies upon the judgment passed by the Hon'ble Supreme Court of India in the case titled ***Tata Engineering & Locomotive Co. Ltd.*** *v/s* ***Jitendra Pd. Singh & Anr. (2001) 10 SCC 530,*** decided on 20.09.2000, paras 2 & 3 of the same read as under:-

> *"2. On an inquiry being held, the inquiry authority found that the allegation of misconduct is proved and the disciplinary authority on consideration of the report of the inquiry authority and the other relevant material dismissed the first respondent from service. Thereafter, a reference to the Labour Court at the instance of the first respondent was made. The Labour Court, though held on a preliminary question that the disciplinary inquiry conducted against the first respondent is valid, came to the conclusion after perusing the documentary and oral evidence on record that the dismissal was not justified and held that he was entitled to reinstatement with full back-wages with continuity in service and other consequential benefits. A writ petition was filed in the High Court which was allowed but on the basis of certain offer made, the learned single Judge also directed that the appellant shall pay, to the first respondent, salary from the date of discharge till the date of the order in a lump sum of Rs. 50,000/-. Thereupon, both the management and the workman filed two appeals. In the appeals several questions were raised as to whether the act attributed to the first respondent would amount to misconduct at all which will entail a disciplinary inquiry at the instance of the management to end up with his dismissal; strong reliance was placed on Glaxo Laboratories v. The Presiding Officer, Labour Court, Meerut and Ors. . Ultimately, however, the two learned Judges agreed on the aspect of the matter that the question whether on misconduct, attributed to the workman there should have been causal connection between misconduct and employment of the workman may not be of much significance when such acts have taken place within premises of the factory should be decided in an appropriate case. What influenced the Court in deciding the matter is that:*
>
> *"Since as many as three workmen on almost identical charges were found guilty of misconduct in connection with the same incident, though in separate proceedings, and one was punished with only one month's suspension, and the other was ultimately reinstated in view of the findings recorded by the Labour Court and affirmed by the High Court and the*

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Supreme Court, it would be denial of justice to the appellant if he alone is singled out for punishment by way of dismissal from service."

3. As the judgment is rested upon this position, whatever other views may have been expressed in the course of the judgment may be of no significance. In that view of the matter, we think there is no need to interfere with the order made by the High Court, that too in a proceeding arising under Article 136 of the Constitution. Hence, we decline to interfere with the order made by the Highs Court. The appeals are dismissed accordingly."

7. He also relies upon the judgment of the Hon'ble High Court of Chhattisgarh in ***Pramod Ramchandra Gaikward*** v/s ***Union of India, MANU/CG/1323/2024***, decided on 01.10.2024, which deals with this issue of respondent going ahead with the inquiry without addressing the fundamental objection raised by the applicant for change of Inquiry Officer.

8. Learned counsel for the respondents has vehemently opposed the contentions of the learned counsel for the applicant. He states that the applicant has not co-operated with the inquiry and had not participated in the inquiry. Despite repeated notices, the applicant failed and neglected to join the proceedings and taking the same to its logical conclusion. In this view of the matter, the applicant cannot derive benefit of his own negligent act.

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9. We have considered the submissions made by the learned counsels for the parties. We have also perused the pleadings available on record

10. The submissions made by the learned counsel for the applicant that the applicant had repeatedly raised this one single ground that he has no faith in the Inquiry Officer, has not been disputed. The applicant had alleged the Inquiry Officer had been conducting the inquiry in a one-sided manner, almost acting in a prejudiced manner to the interest of the applicant by pre-concluding that the applicant is a culprit and despite the applicant raising these grounds in the letter dated 19.03.2014, addressed to the Inquiry Officer and also he had raised the same issue in the letter addressed to the disciplinary authority. But the respondent is paying no heed to the apprehension and objection raised by the applicant and conducted the inquiry which is totally in violation of the DOP&T OM dated 09.11.1972, relied upon by the learned counsel for the applicant and quoted in detail in paras above. Such conduct on the part of the respondent is totally violative of the judgment passed by the Hon'ble High Court of Chhattisgarh in ***Pramod Ramchandra Gaikward*** *(supra)* and the OM of the DOP&T, referred to hereinabove. The second ground taken by the applicant that there has been

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discrimination while dealing with the similarly placed employee one, Sh. Jasveer Singh, under similar circumstances, is also violative of Article 14 of the Constitution of India and it has also been settled by the Hon'ble Apex Court in the case of ***Tata Engineering & Locomotive Co. Ltd.*** *(supra)*. On perusal of impugned order passed by the appellate authority, non-application of mind and acting in mechanical manner is also evident from the fact that the applicant has submitted his statutory appeal raising the grounds including the grounds specifically noted hereinabove. However, the appellate authority has rejected the applicant's statutory appeal without even remotely dealing with the same. For sake of clarity, the impugned appellate order (Annexure A-1) is reproduced hereinbelow:-

> *"WHEREAS disciplinary proceedings for major penalty were initiated against Shri: Mahesh Kumar S/o Sh. Parhlad Singh, J.E. (E&M) vide memo No.DJBNig/Disp/Major/2013/CS-(B)-79/6074 dated 06.05.2013. The charge in brief against him was that Sh. Mahesh Kumar at the time of his appointment as Work Assistant, now functioning, as J.E. (E&M), during the year 1982 has committed misconduct in as much as he submitted a fake/ bogus Diploma Certificate and mark sheet in Electrical Engineering issued by M. G. Polytechnic, Hathras (Aligarh), U.P., showing it as true and genuine and used this certificate to cheat the Government agency (DDA) as well as Delhi Jal Board (previously know as Delhi Water Supply and Sewage Disposal Undertaking under the control of MCD). Whereas, he was neither qualified nor eligible for the said post.*
>
> *AND WHEREAS a departmental inquiry was conducted by Sh. Amit Jain, A.C. (D) as Enquiry Officer, who submitted his findings holding the charge as "Proved" against the charged officer.*
>
> *AND WHEREAS, the Disciplinary Authority after carefully going through the inquiry report, relevant records and considering the facts and circumstances of the case in totality,*

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imposed the penalty of "Dismissal from service, which shall ordinarily be a disqualification for future employment under the Government" upon Sh. Mahesh Kumar, J.E. (E&M).

AND WHEREAS, aggrieved with the above said order of the Disciplinary Authority, Sh. Mahesh Kumar, preferred an appeal before the Appellate Authority.

AND WHEREAS, I have gone through the appeal preferred by Sh. Mahesh Kumar, Ex. J.E. (C), and I have also afforded him a personal hearing. During the personal hearing the CO pleaded that he was dismissed from service one week before his retirement and due to this order he has not received any terminal dues. He further pleaded that he had spot-less service of approximate 32 years in Delhi Jal Board. However, he did not submit any substantiate / cogent facts or reason that could warrant a different stand on the penalty imposed by the Disciplinary Authority.

NOW THEREFORE, I, S. S. Yadav, Chief Executive Officer, DJB, in the capacity of Appellate Authority after considering the facts and circumstances of the case in totality, do not find any reason to interfere with the order of the Disciplinary Authority. Thus, I, as the Appellate Authority, reject the appeal preferred by the charged official."

11. Such action and order of the appellate authority is also not found sustainable in law, in view of the same being in violation of the law laid down by the Hon'ble Apex Court in ***Mahabir Prasad*** v/s ***State of Uttar Pradesh, AIR 1970 Supreme Court 1302***, wherein the Hon'ble Apex Court has ruled that recording of reasons in support of a decision by a *quasi*-judicial authority is obligatory as it ensures that decision is reached according to law and is not result of caprice, whim or fancy or reached on the grounds of policy or expediency. The necessity to record reasons is greater if the order is subject to appeal. The proposition of law laid down in ***Mahabir Prasad*** (*supra*), has further been taken up by the Government of India and has been

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emphasized in the Government of India decision dated 13.07.1981, which mandates that a self-contained, speaking and reasoned order to be passed and issued over the signatures of prescribed disciplinary/appellate/review authority and is at number 1 of Government of India decisions below Rule 15 of CCS (CCA) Rules, 1965.

12. In the light of the aforesaid, the OA is allowed with the following directions:-

(i) Impugned order dated 07.10.2015 is set aside.

(ii) As the impugned penalty order passed by the disciplinary authority has also merged into the impugned appellate authority, that also stands set aside.

(iii) Ordinarily, we would have remitted the matter back to the respondent to continue the disciplinary proceedings from the stage where the infirmity raised; however, given the fact that the applicant had attained the age of superannuation long back on 31.07.2014 and even, thereafter, more than 12 years have passed, the matter requires to be put to a quietus. The respondent may wish to accord similar treatment to the applicant as was metted out to one Sh. Jasveer Singh, involving similar allegations and laid him off with the punishment of compulsory retirement

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by order no. 364 dated 09.11.2015, as per relevant rules and instructions on the subject.

(iv) The applicant shall be entitled for all the consequential benefits in accordance with the relevant rules and instructions on the subject.

(v) The aforesaid directions shall be complied with by the respondent as expeditiously as possible and preferably within six weeks from the date of receipt of a certified copy of this order.

13. However, in the facts and circumstances, there shall be no order as to costs.

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(B. Anand)
Member (A)

(R. N. Singh)
Member (J)

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