

* **HIGH COURT OF DELHI : NEW DELHI**
+ **C.M. No.1554/2008 in W.P.(C) No.5379/2006**
% **Judgment reserved on: March 07, 2008**
Judgment delivered on: March 28, 2008

S.R. Korada Petitioner
Through: Mr. Kumar Parimal, Advocate
versus

Union of India Respondent
Through: Mr. A.K. Bhardwaj, Advocate

CORAM:

HON'BLE MR. JUSTICE MANMOHAN SARIN
HON'BLE MR. JUSTICE VIPIN SANGHI

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

VIPIN SANGHI, J

1. This writ petition had been disposed of by this Court on 21.09.2006 wherein the petitioner had assailed the dismissal of OA No.2033/2005 by the Central Administrative Tribunal. The submission of the petitioner was that the imputation of charges included in the memorandum dated 11.04.2005 issued to the petitioner also find place in the first charge sheet dated 01.06.2004 and that the petitioner could

not be vexed twice over the same charges. As would appear from the order dated 21.09.2006, the petitioner, at the time of arguments, made submissions with regard to Article 5 of the first charge sheet dated 01.06.2004 and compared the same to Article 1 of the second charge sheet dated 11.04.2005. He also made a grievance in relation to Article VI of the second charge sheet. Both these arguments were dealt with by this Court in following manner: -

“Referring to Article I of the second charge sheet dated 11.4.2005, counsel for the petitioner submitted that the petitioner is accused of misconduct in possessing documents not dealt with by him, such as RDI Division's original recognition file for M/s. Sankalp Seeds Pvt. Ltd. Further allegation is that a copy of the forged recognition letter issued to M/s. Vibha Agrotech was also found. Here, the charge is of possession of the recognition file of M/s. Sankalp Seeds Pvt. Ltd. and of the forged recognition letter to M/s. Vibha Agrotech, which he says, also figure in Article V of the first charge sheet. There is some merit in this, inasmuch as, Article I of second charge sheet relates to the documents unauthorizedly found in his possession, while Article V of the first charge sheet also refers to misconduct for possession of the said documents. Confronted with this situation, Mr. A.K. Bhardwaj, on obtaining instructions from Mr. Ashok Kumar Taneja, Under Secretary, Ministry of Science and Technology, states that the respondents will drop Article I of the second charge sheet dated 11.4.2005 insofar as it relates to possession of the recognition file of M/s. Sankalp Seeds Pvt. Ltd. and the forged recognition letter to M/s. Vibha Agrotech since the same is covered by the Articles of charges issued in the Memorandum dated 1.6.2004.

Learned counsel for the petitioner next referred to Article VI of the second charge sheet where misconduct is attributed in unauthorizedly possessing the missing original file of the RDI Division on recognition of In-house R&D Unit of Sankalp Seeds Company Pvt. Ltd. Here, learned counsel for the respondent submitted that reference to unauthorized possession is only by way of recital and not an independent head and barring this aspect for the rest of the Article-VI, they would proceed with the enquiry.

We find that taking note of the concessions as given by the respondent, nothing further survives in the writ petition and but for these modifications, the impugned order of the Tribunal does not suffer from any error or infirmity."

2. From the aforesaid, it would be seen that no grievance was made with regard to any other charge levelled in the second charge sheet dated 01.04.2005. By this application, the petitioner seeks clarification/modification of the aforesaid order by contending that the charges levelled in Article IV of the second charge sheet dated 01.04.2005 are similar and identical to Article V of the charge sheet dated 01.06.2004 and, therefore, Article IV of the second charge sheet may be treated as deleted.

3. Learned counsel for the respondent has appeared on advance notice and has brought to our notice the order dated 01.01.2008 passed by the Central Administrative Tribunal in another O.A. No.1896/2007 filed by the petitioner. In the aforesaid O.A. the petitioner had sought the following relief: -

“(A) It is respectfully prayed that this Hon'ble Tribunal may direct the respondents to delete and drop Article-IV on forgery of the recognition letter to M/s Vibha Agrotech P. Limited as the same allegation was inquired in earlier inquiry proceedings contemplated against the applicant.”.

4. Counsel for the petitioner admits that he has not challenged the order dated 01.04.2008 in O.A. No.1896/2007, which was dismissed by a detailed order passed by the Tribunal.

5. In our view, there is no merit in this application and the same deserves to be dismissed firstly on account of the fact that when the matter was initially argued and decided on 21.09.2006, no grievance was made in respect of Article IV of the second charge sheet, and secondly on account of the fact that the petitioner had approached the Tribunal with the same prayer i.e. to drop Article IV of the second charge sheet, which has been dismissed by the Tribunal and that order of dismissal in OA No.1896/2007 had not been challenged by the petitioner.

6. Dismissed.

**VIPIN SANGHI
JUDGE**

**MANMOHAN SARIN
JUDGE**

March 28, 2008
RSK