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

+ **W.P.(C) 6631/2015**

Date of Decision : 25th January, 2017

MADHUP MOHTA Petitioner

Through **Dr. Ashok Dhamija, Advocate**

versus

UNION OF INDIA & ANR. Respondents

Through **Ms. Monika Arora, CGSC and
Mr. Sushil Kumar Panda and Mr.
Harsh Ahuja, Advocates**

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

SANJIV KHANNA, J. (ORAL)

This writ petition impugns the order dated 26.03.2015 passed by the Principal Bench, Central Administrative Tribunal, whereby OA No.2477/2013 filed for setting aside/quashing, the charge sheet /charge memorandum No. Q/Vig./843/02/2010 dated 08.11.2012 issued by the respondents for initiating disciplinary proceedings, has been dismissed.

2. Learned counsel for the petitioner submits that Central Bureau of Investigation had carried out investigation on identical charges and had submitted the closure report in FIR No. RC-DAI-2008-A-0022 dated 23.06.2008. Therefore, the Tribunal should have quashed the charge memorandum.

3. The closure report submitted by the Central Bureau of Investigation was accepted by the Special Judge -03, Central Bureau of Investigation Court vide order dated 26.11.2011. However, this order records that as per the investigation conducted, the quotations of M/s Panalink Infotech Ltd. were found to be forged, although the same was on the letter head of the firm. The documents in question were sent to the GEQD, Shimla, *albeit* the findings remained inconclusive. Evidence could not be found to establish that the petitioner and one Rakesh Kumar had any knowledge that the quotation of M/s Panalink Infotech Ltd. was forged.

4. The respondents on the other hand have referred to the order dated 30.11.2011 in respect of another FIR No.RC-DAI-2008-A-0021/2008.

5. We are not required to go into the factual aspects, evidence and comparative merits.

6. The criminal proceedings and departmental proceedings are distinct and separate. The mode and method of proving the charges in the criminal case and allegations in the departmental proceedings are different. The Evidence Act is applicable to criminal prosecution and the principle of “Beyond reasonable doubt” applies. In departmental proceedings, provisions of Evidence Act do not apply. Further, principle of probabilities applies.

7. The petitioner in the present case was served with the memorandum dated 08.11.2012 under Rule 14 of the Central Civil Service (CCA) Rule 1965. The Articles of Charge read as under:-

“ARTICLE 1

Dr. Madhup Mohta, Director, while functioning as Director (P&C), in the Indian Council for Cultural Relations (ICCR), New Delhi, during the year 2005, colluded with Shri Rakesh Kumar the then DG, ICCR, and also with M/S Anju Visual, F-1183, Chittranjan Park, New Delhi, with the object to cause undue favour to M/s Anju Visuals, by awarding two contracts viz. (i) Audio visual clips for ICCR website on folk dances of India and (ii) Audio-Visual clips for ICCR website on Indian Folk theatres to M/s Anju Visuals, at a total value of Rs.21,81,960/- @ Rs.10,90,980/- per contract, without following the open tender procedure, for works with value exceeding Rs.5.00 lakhs, as required under the provisions of General Financial Rules, 1963.

By the above act, the said Dr. Madhup Mohta, Director, failed to maintain absolute integrity and exhibited conduct unbecoming of a Government servant, thereby violating the provisions of Rules 3 (1) (i) and 3 (i) (iii) of CCS (Conduct) Rules, 1964.

ARTICLE-II

Dr. Madhup Mohta, Director, while functioning as Director (P&C), in the India Council for Cultural Relations (ICCR), New Delhi, vide his letter dated 10.03.2005, obtained a forged and false quotation from M/s Panalink Infotech Limited, K-128, Ranjit Sadan, Mohammadpur, Bhikaji Cama Place, New Delhi-16, in

order to cause undue favour to M/s Anju Visuals by awarding two contracts referred to in Article I, above, to the said firm, and to merely complete the formality of having three quotations on paper.

By the above, act, the said Dr. Madhup Mohta, Director, failed to maintain absolute integrity and exhibited conduct unbecoming of a Government servant, thereby violating the provisions of Rules 3(I) (i) and 3 (1) (iii) of CCS (Conduct) Rules, 1964.”

8. Along with the said Articles of Charge, the petitioner was also served with the statement of imputation of misconduct or misbehaviour in support of the articles of charge.

9. The petitioner may and can rely upon the closure report in response to the articles of charge. However, we would not go into the factual aspects and meticulously evaluate the charges levelled against the petitioner and enter into a debate at the preliminary stage whether the articles of charge are incorrect. The closure report, by itself, for the legal position stated in paragraph 6 above cannot foreclose and be a firm and conclusive answer to the disciplinary proceedings. The Tribunal in the impugned order has considered the different aspects and has examined the contention and issues raised, with which we agree.

10. We clarify that the petitioner has not raised or argued any other issue.

11. For the aforesaid reasons, we would dismiss the writ petition

and not interfere with the impugned order dated 28.06.2014. However, we would clarify that this court has not expressed any opinion on merit. The observation in the impugned order passed by the Tribunal dated 26.03.2015 should not be construed as recording findings or observations on merit. The Inquiry Officer/Disciplinary Authority would independently apply their minds to the allegation and each contention, without being influenced by the observations made in this order or the impugned order. Copy of the order be given dasti, as prayed.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

JANUARY 25, 2017
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