

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

Date of Decision: January 09, 2018

+ **W.P.(C) 214/2018 & C.M.863/2018**

RAJIV AGARWALPetitioner

Through: Mr. Alok Tripathi, Advocate

versus

M/S CENTRAL ELECTRONICS LTD Respondent

Through: Nemo

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

1. Petitioner is Assistant General Manager (SPV-Marketing) with respondent since the year 2013, who was departmentally proceeded against and the departmental proceedings have culminated in the shape of an Inquiry Report of 21st December, 2017 (*Annexure P-1*) wherein it has been held that the articles of charge levelled against him stand proved. Impugned Inquiry Report (*Annexure P-1*) is assailed in this petition on the ground that petitioner was served with a memorandum intimating him about the articles of charge levelled against him and the subject matter of charges levelled against him is the same as levelled against *G.C. Tayal*, Assistant Manager, who was departmentally proceeded against in August, 2013 and the inquiry against him concluded with imposition of minor penalty.

2. Learned counsel for petitioner draws the attention of this Court to Rule 36 of *the Conduct, Discipline & Appeal Rules of Central*

Electronics Limited (hereinafter referred to as the 'Rules') to submit that where disciplinary proceedings are liable to be initiated against two or more employees, then a joint/common inquiry ought to be undertaken, which has not been done in the instant case. Thus, it is submitted that initiation of inquiry against petitioner after conclusion of inquiry against *G.C. Tayal*, Assistant General Manager is not only in violation of Rule 36 of the aforesaid Rules, but is also to the detriment of petitioner, who is to retire soon. An endeavour has been also made by learned counsel for petitioner to show that inquiry report is unsustainable on the face of it.

3. Upon hearing and on perusal of material on record and the aforesaid Rules, I find that as per Rule 34 of the afore-referred Rules, action on the Inquiry Report is to be taken by Disciplinary Authority who may agree or disagree with the findings of the Inquiry Authority and in case Disciplinary Authority disagrees with the findings of the Inquiry Authority, it may record its own finding and give reasons for disagreement and it is within the discretion of Disciplinary Authority, for reasons to be record in writing, to refer the case to Inquiry Authority for fresh or further Inquiry. The Inquiry Report (*Annexure P-1*) is accompanied by a forwarding letter, which gives an option to petitioner to make representation/submission against the Inquiry Report to the Disciplinary Authority within 15 days of receipt of the letter.

4. Learned counsel for petitioner submits that the Inquiry Report was received on 26th December, 2017 and petitioner would be sending a representation against Inquiry Report (*Annexure P-1*) to Disciplinary Authority today itself. Let it be so done.

5. All that needs to be clarified is that petitioner would be at liberty to take the pleas put forth herein in his representation and Disciplinary Authority shall duly consider it before proceeding further.
6. This petition and the application are disposed of in the aforesaid terms.
7. Copy of this order be given *dasti* under the signatures of the Court Master to learned counsel for petitioner.

(SUNIL GAUR)
JUDGE

JANUARY 09, 2018

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