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

Date of Decision: 17.12.2019

+ W.P.(C) 12850/2019 & CM APPL. No. 52498/2019

DELHI JAL BOARD AND ANR. Petitioners
Through : Mr. S.U. Abbas, Advocate.

versus

USHA KAPOOR Respondent
Through : Mr. A.K. Panwar, Advocate.

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

G.S.SISTANI, J. (ORAL)

1. The respondent herein joined the service of the Delhi Jal Board as a Lower Division Clerk ('LDC') in the year 1972. She was promoted from time-to-time and her last posting was as Zonal Revenue Officer ('ZRO'). The respondent retired from the service on attaining the age of superannuation on 31.01.2013.

2. After her retirement, the respondent was issued a charge memo dated 13.03.2014. The order passed by the Disciplinary Authority, as subsequently confirmed by the Appellate Authority, led to the filing of an OA which was allowed; and the Tribunal's order dated 09.07.2019 has led to the filing of the present writ petition.

3. Learned counsel for the petitioner submits that the Central Administrative Tribunal ('Tribunal') has passed the impugned order without taking into consideration the settled law as enunciated by the Supreme Court in *Parma Nanda vs. State of Haryana and Ors.*, reported as (1989) 2 SCC 177, as per which the findings of an Inquiry Officer cannot be interfered with unless the same are found to be arbitrary or perverse.

4. Counsel further submits that the impugned order does not point-out any irregularity or illegality in the disciplinary proceedings. He points-out that the order has been passed in total disregard of various DoPT OM's dated 28.02.1990, 28.03.1994, and others, which provide that the penalty that can lawfully be imposed once misconduct is proved.

5. Counsel for the respondent however submits that there is no infirmity in the order passed by the Tribunal. It is submitted that the respondent was in fact instrumental in ensuring that the money collected by Beldar/Meter Reader was deposited with the department which is evident from the fact that after she joined as ZRO on 23.08.2011, she issued two memos each to the Beldar/Sh. Om Prakash and the Head Clerk; and it was only upon her taking the initiative that the money owed to the DJB was deposited in two instalments on 12.07.2012 and 28.07.2012.

6. We have heard learned counsel for the parties and have considered their submissions.

7. In this case, the allegation is that when the respondent was ZRO, since the moneys collected by the Beldar/Meter Reader between 31.03.2011 and 24.04.2012 were not deposited even after one year of her joining, a charge memo dated 13.03.2014 was issued to her after the respondent retired. The allegation in the charge-memo was that one Sh. Om Prakash, Beldar/Meter Reader had failed to deposit with the department the amount collected by him as water charges between August, 2011 and April, 2012; and that the respondent had failed to persuade him to deposit such amount during her tenure as ZRO. The stand of the respondent is that the major part of such amounts related to a period before she joined as ZRO ; and that after her joining as ZRO, when she learnt that the moneys had not been deposited, she took necessary steps to ensure that the moneys got deposited with the Delhi Jal Board.

8. The article of charge issued against the respondent reads as under :

“ARTICLE of Charge

That Smt. Usha Kapoor, W/O Sh. S.K. Kapoor, While functioning as ZRO (NE) II during the year 2010 to 2011, has committed misconduct in as much as he failed to persuade Sh. Om Parkash, Beldar/Meter Reader, to deposit the amount so collected by him as water charges dues w.e.f. Oct. 2010 to Aug, 2011 through G-8, receipts as details given here under.

<i>Sl. No.</i>	<i>G.8 Receipt Number</i>	<i>Date</i>	<i>Amount Rs.</i>
<i>1</i>	<i>262008 to 262011</i>	<i>16.10.2010</i>	<i>8736.00</i>
<i>2</i>	<i>262012 to 262069</i>	<i>25.10.2010 to 03.2011</i>	<i>303844.00</i>

3	3262070 262084	to	31.03.2011 24.04.2012	to	99630.00
<i>Total (Rupees four lacs twelve thousand two hundred ten only)</i>					4,12,210.00

9. The Inquiry Officer however held that the charges against the respondent stood proved. The Disciplinary Authority accepted the findings of the Inquiry Officer and passed an order dated 07.08.2018 imposing a penalty of 20% cut in pension for a period of 10 years.

10. A perusal of the article of charge itself shows firstly, that there is no allegation that the respondent was herself directly responsible for non-deposit of water charges collected by the Beldar/Meter Reader; secondly, that the record also shows that the major amount out of the total sum that the Beldar/Meter Reader had failed to deposit had been collected by him at a time when the respondent was not ZRO ; and that only a small sum of Rs.25,000/- had been collected by the Beldar/Meter Reader during the tenure of the respondent.

11. Be that as it may, after taking-over as ZRO, it is evident that the respondent took concrete steps, including issuing charge memos, to the Beldar/Meter Reader and to the Head Clerk, to ensure that the amounts collected were deposited with the department. It was as a result of the respondent's efforts that all such amounts came to be deposited with the department. The contention raised on behalf of the petitioners that since the respondent was ZRO, it was her responsibility to ensure and persuade the Meter Reader to deposit the

moneys collected, which she failed to do, appears to be misplaced, inasmuch as the record shows that the respondent did indeed take requisite steps to get the Meter Reader to deposit the monies owed to the department. As recorded above, to this end the respondent issued two charge memos to the Meter Reader and two charge memos to the Head Clerk, which eventually persuaded the Meter Reader to pay-back/deposit the amounts wrongfully withheld.

12. In view of the above discussion, we find no infirmity in the order passed by the Tribunal. No ground is therefore made-out to interfere with the impugned order by way of the present petition.

13. The writ petition and the application are accordingly dismissed.

G.S.SISTANI, J

ANUP JAIRAM BHAMBHANI, J

DECEMBER 17, 2019

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