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

\+ W.P.(C) 7867/2018 and CM APPL. 30172/2018

LIEUTENANT GOVERNOR OF DELHI AND ORS..... Petitioners

Through: Ms. Avnish Ahlawat & Ms. Palak Rohmetra, Advocates.

versus

SHRI HUKAM CHAND ..... Respondent

Through: Mr. Ravi Gupta, Senior Advocate along with Mr. V.K. Sharma, Mr.Sachin Jain & Ms. Diya Kapoor, Advocates for and along with respondent No.1 in person.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE A. K. CHAWLA

O R D E R

% 22.02.2019

1. Issue notice. Mr. V.K. Sharma accepts notice on behalf of the respondent.

2. With the consent of learned counsels, we have heard learned counsels and proceed to dispose of the writ petition.

3. The Lieutenant Governor of Delhi has assailed the order dated 12.12.2017 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (CAT/ Tribunal) in O.A. No.2810/2016, whereby the Tribunal has allowed the Original Application preferred by the respondent and quashed the show-cause notice and charge-memo issued to the respondent.

4. The respondent, while serving as SDM, Punjabi Bagh, passed an

order under Section 85 of the Delhi Land Reforms Act. Consequently, the respondent was served with a charge-sheet, wherein the Statement of Articles of Charge framed against him were the following:

"Article-I

That the said Sh. Hukam Chand, adhoc DANICS, while functioning as Sub-Divisional Magistrate/Revenue Assistant (Punjabi Bagh) during the year 2012, committed gross misconduct in as much as he passed an illegal order dated 05/09/2012 ***with ulterior motives****, giving cultivator possession rights in respect of Gaon Sabha Land in village Neelwal, Delhi to some private persons in the guise of " Scheme Kabiz", although the said land had already been allotted to Delhi Jal Board in 2008, with the approval of Hon'ble Lt. Governor, Delhi for setting up of Sewage Pumping Section.*

By the above acts of omission & commission, the aforesaid Sh. Hukam Chand, adhoc DANICS, exhibited lack of absolute integrity and devotion to duty, which is unbecoming of a Govt. servant, thereby violating the provisions of Rule 3 of CCS (Conduct) Rules, 1964.

Article-II

That the said Sh. Hukam Chand, while functioning in the aforesaid post during the aforesaid period, committed gross misconduct in as much ***as he failed to initiate appropriate proceedings under Section 86A of DLR Act*** *for evicting the unauthorized occupants of the aforesaid Gaon Sabha land.*

By the above acts of omission & commission, the aforesaid Sh. Hukam Chand, ad hoc DANICS, ***exhibited lack of absolute integrity and devotion to duty****, which is unbecoming of a Govt. servant, thereby violating the provisions of Rule 3 of CCS (Conduct) Rules, 1964.*

Article-III

> *The said Sh. Hukam Chand, while functioning in the aforesaid post during the aforesaid period, committed gross misconduct in as much as* ***he failed to initiate appropriate action for transferring the possession of the aforesaid land to Block Development Officer (West) for handing over the same to Delhi Jal Board.***
>
> *By the above acts of omission & commission, the aforesaid Sh. Hukam Chand, adhoc DANICS,* ***exhibited lack of absolute integrity and devotion to duty****, which is unbecoming of a Govt. servant, thereby violating the provisions of Rule 3 of CCS (Conduct) Rules, 1964."* (emphasis supplied)

5. The Tribunal has allowed the Original Application simply on the premise that since the respondent was discharging quasi-judicial functions, he could not be charge sheeted in respect of his actions and conduct undertaken in that capacity. Reliance was placed on ***Rajesh Kumar Bhardwaj (SDM) Vs. Govt. of NCT of Delhi & Others***, O.A. No.1307/2015 decided on 05.04.2016, and a few other decisions, including the decision in ***Zunjarrao Bhikaji Nagarkar Vs. Union of India & Others***, (1999) 7 SCC 409.

6. It is pointed out by learned counsel for the petitioner that the charge against the respondent, inter alia, was that while discharging his duties as a quasi-judicial authority, the respondent had acted "*with ulterior motives*. Similarly, he has been charged with exhibiting lack of absolute integrity and devotion to duty. The submission is that when an officer – while functioning as a quasi-judicial authority, acts with ulterior motive; with corruption; bias; exhibits lack of absolute integrity and devotion to duty, such conduct would tantamount to misconduct. Thus, the charge sheet could not have been quashed at the initial stage, as the aspect of "*ulterior motives*"

etc. could have been established only if the inquiry were to proceed.

7. Learned senior counsel for the respondent fairly does not oppose this proposition though he submits that there is no basis to claim that the respondent had acted "*with ulterior motives*" or with lack of integrity or devotion to duty.

8. Be that as it may, in our view, the approach of the Tribunal in quashing the charge sheet merely, on the premise that the respondent was functioning as a quasi-judicial authority, was not correct. The Tribunal should have also bestowed its consideration on the aspect whether the charge of "*ulterior motives*", "*lack of integrity*" or "*devotion to duty*" was made out.

9. Accordingly, we set aside the impugned order and remand the case back to the Tribunal for reconsideration in the aforesaid light.

10. The parties shall appear before the Tribunal on 28.02.2019. The Tribunal is requested to dispose of the Original Application as early as possible.

11. The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

A. K. CHAWLA, J

FEBRUARY 22, 2019
B.S. Rohella