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

+ W.P.(C) 7397/2017

DELHI DEVELOPMENT AUTHORITY Petitioner

Through: Mr. Arun Birbal with Mr. Sanjay
Singh, Advs.

versus

NIDHISH CHANDRA GUPTA Respondent

Through: Mr. Shanker Raju with Mr. Nilansh
Gaur, Advs.

+ W.P.(C) 7403/2017

DELHI DEVELOPMENT AUTHORITY Petitioner

Through: Mr. Arun Birbal with Mr. Sanjay
Singh, Advs

versus

BRIJPAL Respondent

Through: Mr. Shanker Raju with Mr. Nilansh
Gaur, Advs.

+ W.P.(C) 7408/2017 & C.M. No. 838/2019

DELHI DEVELOPMENT AUTHORITY Petitioner

Through: Mr. Arun Birbal with Mr. Sanjay
Singh, Advs

versus

M C SINGHAL Respondent

Through: Mr. Shanker Raju with Mr. Nilansh
Gaur, Advs.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE REKHA PALLI

ORDER
08.04.2019

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The petitioner Delhi Development Authority (DDA) has preferred these writ petitions to assail the common order passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. Nos. 233/2016, 880/2016 dated 19.08.2016 and a similar order passed in O.A. No. 858/2016 dated 30.09.2016.

The applicants in these Original Applications had assailed the charge-sheet issued to them by the petitioner for holding major penalty proceedings. A perusal of the impugned orders in these cases shows that the Tribunal has virtually converted itself into the enquiry officer/ disciplinary authority and has proceeded in the matter as if it is adjudging the charge levelled against the applicants, for the first time, on its own.

We are afraid that the Tribunal has no jurisdiction to do so. The Tribunal cannot examine the charge; the defence of the charged officer, who has approached the Tribunal as applicant and on that premise, return a finding that the charge against the officer is not made out.

The aforesaid exercise was entirely in the realm of the disciplinary authority. In judicial review, such an exercise cannot be undertaken.

We, therefore, set aside the impugned orders. The observations made by the Tribunal in relation to the merits of the charge are also set aside and the same shall not influence the mind of the disciplinary authority or the enquiry officer appointed by the petitioner.

We permit the petitioner to proceed with the enquiry. Counsel for the respondent submits that in the meantime, the respondents have retired and, therefore, the proceedings would now continue under Rule 9 of the CCS Pension Rules. Before reopening the proceedings, the petitioner should examine whether the proceedings fall within the scope of Rule 9 as aforesaid and, thereafter the proceedings be resumed.

The petitions stand disposed of in the aforesaid terms.

VIPIN SANGHI, J

REKHA PALLI, J

APRIL 08, 2019

N.Khanna