

\$~Suppl.-2

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

+ W.P. (C) 799/2021

VIJAY KUMAR SALUJA

.....Petitioner

Through: Mr.Mahesh Bhardwaj, Advocate.

Versus

DELHI DEVELOPMENT AUTHORITY AND ANR.

.....Respondents

Through: Mr.Arun Birbal, Advocate.

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Date of Decision: 29th January, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE ASHA MENON

J U D G M E N T

MANMOHAN, J (Oral):

CM APPL. 2040/2021

Allowed, subject to just exceptions.

W.P. (C) 799/2021 & CM APPL. 2039/2021

1. Present writ petition has been filed challenging the order dated 19th October, 2020 passed by Central Administrative Tribunal [CAT] as well as for quashing the Charge Memo dated 20th June, 2016. The petitioner, a former Assistant Engineer in DDA, also prays for a direction to the respondents to grant all consequential benefits including gratuity/ leave encashment etc. along with 12% interest.

2. Learned counsel for the petitioner states that the CAT erred in dismissing the petitioner's application on the basis of para no.2 of the respondent's counter-affidavit without considering the issue of inordinate delay in issuing the impugned Charge Memo. He emphasizes that the respondents had only mentioned a few dates in their affidavit before CAT and there was no explanation for delay of eighteen years in initiating the disciplinary action.
3. He also states that the CAT failed to consider that the impugned Charge Memo had been issued *malafidely*, with the sole intent to deprive the petitioner of his further promotion and retirement benefits.
4. A perusal of the paper book reveals that the petitioner has, as of now, retired as Executive Engineer from DDA. The allegation against the petitioner in the charge memo issued in 2016 is that he had shown lack of care and supervision during construction of SFS houses by DDA between 1998 and 2001 and as a result, the said structures had shown structural stress.
5. We are in agreement with the view expressed by the CAT that the delay is a question of fact to be decided on the facts of each case.
6. In the present matter, CAT was satisfied with DDA's explanation that the Charge Memo was delayed as the flats had remained vacant for a long time awaiting water and electricity connections and as soon as the flats were allotted, the allottees complained about major structural defects. Thereafter, the defects were removed and it was decided that the persons who were responsible shall be identified.
7. It was only after the preliminary inquiry was completed that the disciplinary authority had issued the Charge Memo to the petitioner.

Consequently, delay in the present case, if any, at this threshold stage of the inquiry, does not absolve the petitioner of the charge of lack of supervision and care.

8. In any event, houses are not meant to last for a short period of fifteen to twenty years. The stairs, roofs and balconies of the houses, which had to be extensively dismantled/recast/repaired/rectified in the present case, were meant to last for a very long period, if not a life-time.

9. Consequently, the impugned order passed by the CAT does not call for interference in writ jurisdiction.

10. Accordingly, the present writ petition is dismissed along with pending application. However, it is clarified that the observations made in the present order are only for deciding the present writ petition. None of the observations in the said order, including on the aspect of prejudice, if any caused to the petitioner due to alleged delay in issuance of the Charge Memo, shall prejudice the petitioner in the ongoing inquiry.



MANMOHAN, J



ASHA MENON, J

**JANUARY 29, 2021
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