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IN THE HIGH COURT OF DELHI AT NEW DELHI*Date of decision: 10.01.2024*

+ W.P.(C) 310/2024

+ W.P.(C) 312/2024

**GOVERNMENT OF NCT OF DELHI THROUGH ITS CHIEF
SERETARY** PetitionerThrough: Ms.Avnish Ahlawat, SC, GNCTD
with Ms.Tania Ahlawat, Mr.N.K.Singh &
Ms.Laavanya Kaushik, Advs.

versus

SUBHAS CHANDRA PANDEY

..... Respondent

Through:

CORAM:**HON'BLE MS. JUSTICE REKHA PALLI****HON'BLE MR. JUSTICE RAJNISH BHATNAGAR****REKHA PALLI, J (ORAL)****CM APPL. 1461/2024****CM APPL. 1463/2024**

1. Exemptions allowed, subject to all just exceptions.
2. The applications stand disposed of.

W.P.(C) 310/2024 & CM APPL. 1460/2024 (stay)**W.P.(C) 312/2024 & CM APPL. 1462/2024 (stay)**

3. The present petitions seek to assail the common order dated 20.03.2023 passed by the learned Central Administrative Tribunal (Tribunal) in O.A. Nos.1447/2018 & 1527/2018. Vide the impugned order, the learned Tribunal has quashed the charge memorandum dated 01.01.2016 issued against the respondent.



4. Learned counsel for the petitioner submits that while quashing the charge-sheet, the learned Tribunal has been swayed only by the fact that the charge-sheet pertained to an incident of May 2004. She submits that the learned Tribunal has however failed to appreciate that there can be no hard and fast rule that a charge-sheet which is issued belatedly must be necessarily quashed.

5. In order to appreciate the submissions of the learned counsel of the petitioner, it would be apposite to note the relevant finding of the learned Tribunal as contained in para nos. 7 and 9 of the impugned order, which read as under:

“7. The applicant has been charged that while posting in RCS office during May, 2004 he accepted illegal gratification of Rs.25,000/- from Sh. Satpal Grover & Sh. Amarjeet Chhabra of Serve Sanjhi Society CGHS by cheque favouring his wife Smt. Shasikala in lieu of preparing documents for the society for the purpose of obtaining clearance of RCS for draw of lots and thus acted in a manner unbecoming of government servant in violation of the provisions of Rule 3 of CCS (Conduct) Rules, 1964. A bare reading of the charge leveled against the applicant would show that the allegation pertains to acceptance of illegal gratification in May, 2004 while he was working in the office of RCS. The applicant has categorically denied the charge leveled against him stating that he was not posted in RCS office during 2003-2004 vide his reply dated 03.07.2009 (Annexure A-4 to OA-1527/2018). It appears that the respondents without applying their mind have issued the charge-sheet to the applicant thereby alleging a vague charge in respect of an incident which took place more than 12 years back. On perusal of the charge and other material placed on record we find that there is inordinate and unexplained delay in initiating the disciplinary proceedings against the



applicant. The applicant has specifically raised the plea of delay and laches in issuing the charge-sheet to which no satisfactory reply has come-forth from the respondents. It is well settled that if the delay is inordinate and unexplained it causes great prejudice to the delinquent employee, as held by the Hon'ble Supreme Court in N. Radhakishn (supra). The Hon'ble Supreme Court has also reiterated this principle in Bani Singh (supra) where it has been clearly ruled that inordinate delay in issuance of the charge-sheet vitiates the entire process and the charge memo as well as further proceedings deserve to be quashed and set aside. The matter is required to be given a quietus especially when the respondents are not serious in the enquiry. Had the respondents been vigilant enough they would have acted promptly and issued the chargesheet immediately when the incident took place. They have failed to provide a sufficient and reasonable explanation for the delay in initiating the disciplinary proceedings against the applicant. It is well settled that delay defeats justice.

9. If one has regard to the above, it is trite that delay which is unexplained and unreasonable would cause prejudice to the delinquent employee. Such delay clearly manifests the lack of seriousness on the part of the DA in pursuing the charges against the employee. In the event of any employee deviating from path of honesty, clay and diligence, action stile expeditiously be taken as per prescribed procedure. The Supreme Court has laid down the principles holding that unexplained and unreasonable delay per se results in prejudice to the charged officer except when the employer can show that the employee was responsible for delay or is otherwise able to explain the delay. While evaluating the impact of the delay, the court must consider the nature of the charge, its complexity and for what reason the delay has occurred. In the instant matters the respondents have not tendered any explanation as to the delay in issuing the chargesheet, rather a vague



charge has been leveled against him, that too, without application of mind. The respondents have failed to provide a_ sufficient and reasonable explanation for the delay in initiating the disciplinary proceedings against the applicant. We are, therefore, of the considered view that the delay in issuing the charge- sheet after 12 years has greatly prejudiced the applicant the matter of his defense.”

6. From a perusal of the aforesaid findings of the learned Tribunal, it emerges that the respondent was on 11.05.2009, issued with a show cause notice pertaining to a purported misconduct of May 2004, when he was stated to be posted in the office of the Registrar of Cooperative Societies. The respondent replied to this notice on 03.07.2009, wherein, while denying the charges against him, he categorically stated that he was not even posted in the office of the Registrar of a Cooperative Societies in the year 2004. The learned Tribunal observed that after this reply was submitted by the respondent, no action was initiated against him for many years and it was only in the end of 2015, that a fresh show cause notice was issued to him in response whereto he reiterated the reply submitted by him on 03.07.2009. The petitioners, however, without even examining this plea of the respondent proceeded to issue him a charge memorandum on 01.01.2016. The learned Tribunal, therefore, came to a conclusion that the charge-sheet, besides having been issued after an inordinate and unexplained delay of 12 years, was even otherwise vitiated by non-application of mind. It is in these circumstances that the learned Tribunal has quashed the charge memorandum issued by the petitioner on 01.01.2016.

7. In the light of this factual matrix, we are of the considered view that though the learned counsel for the petitioner is correct in urging that there is



no hard and fast rule that every belated charge-sheet must be quashed, the facts of the present case show that there was absolutely no explanation whatsoever furnished by the petitioner for this inordinate delay in issuing the charge-sheet. We also cannot lose sight of the fact that the petitioners were always aware of this purported misconduct by the respondent as also his specific stand in response to the show cause notice issued on 11.05.2009 that he was not even posted at the place where the incident is said to have taken place in 2004. Even before us, there is absolutely no explanation by the petitioner either for this inordinate delay in issuance of the charge-sheet or for the non consideration of the respondent's preliminary plea that he was not even posted in the office of the Registrar Cooperative Societies in the year 2004.

8. In the light of the aforesaid, we have no hesitation in agreeing with the learned Tribunal that this was a fit case for setting aside the charge memorandum. We, therefore, find no infirmity in the impugned order.

9. The writ petitions being meritless stand dismissed.

(REKHA PALLI)
JUDGE

(RAJNISH BHATNAGAR)
JUDGE

JANUARY 10, 2024

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