



2025:DHC:855-DB



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

+ **W.P.(C) 5047/2019 & CM APPL. 22352/2019**

JANAK RAJ

.....Petitioner

Through: **Mr. Ram Avtar Sharma, Adv.**

versus

**DELHI DEVELOPMENT
AUTHORITY AND ANR.**

.....Respondents

Through: **Mr. Arun Birbal, Adv. for
DDA.**

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

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10.02.2025

C. HARI SHANKAR, J.

1. Disciplinary proceedings were instituted against the petitioner, who retired as Executive Engineer in the DDA, under Rule 9 of the Central Civil Services (Pension) Rules, 1972¹, *vide* memorandum dated 19 January 2018. The petitioner had retired, prior to the said date, on 31 July 2016.

2. Before the enquiry proceedings could take off, the petitioner approached the Central Administrative Tribunal² by way of OA

¹ "CCS (Pension) Rules" hereinafter

² "the Tribunal" hereinafter



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1115/2018.

3. The petitioner canvassed, before the Tribunal, one sole ground, which was that the charge sheet had been issued more than four years after the event of misconduct, which constituted its basis and was, therefore, barred by time in view of Rule 9(2)(b)(ii)³ of the CCS (Pension) Rules.

4. The Tribunal has, by judgment dated 1 April 2019, rejected the petitioner's contention and has held the institution of the charge sheet to be within time.

5. Aggrieved thereby, the petitioner has moved this court by means of the present writ petition.

6. We have heard Mr. Sharma, learned Counsel for the petitioner, and Mr. Birbal, learned Counsel for the respondents, at some length.

7. Mr. Birbal, learned Counsel for the respondents, submits that the word "event" as used in Rule 9(2)(b) of the CCS (Pension) Rules has to be interpreted differently from the word "misconduct". He has placed reliance on the judgments of two Division Benches of this

³ 9. **Right of President to withhold or withdraw pension –**

(2)(b) The departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement, or during his re-employment, -

(ii) shall not be in respect of any event which took place more than four years before such institution,



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court in *ICAR v Haridev Prasad*⁴ and in *Ashok Kumar Garg v UOI*⁵. He submits that these decisions hold that the rule making authority has advisedly used the word “event” instead of the word “misconduct” and that the event would continue till the respondent becomes aware of the misconduct committed. He submits that, therefore, the manner in which the petitioner is seeking to interpret the word “event” as being the specific act of misconduct attributed to him, is unduly narrow.

8. As against this, Mr. Sharma, learned Counsel for the petitioner has placed reliance on the judgments of the Supreme Court in *State of UP v Shri Krishna Pandey*⁶ and *Brajendra Singh Yambem v UOI*⁷.

9. Without entering into the aspect of when, actually, the event could be said to have taken place for the purposes of Rule 9(2)(b) of the CCS (Pension) Rules in the present case, it is clear that the position in law is arguable.

10. Interdiction of disciplinary proceedings without allowing an enquiry to take place has been held, by the Supreme Court, to be a course of action to be adopted in the rarest of cases.

11. From the times of *UOI v. A.N. Saxena*⁸ and *UOI v. Upendra*

⁴ 2017 SCC Online Del 8779

⁵ 2019 SCC Online Del 8386

⁶ (1996) 9 SCC 395

⁷ (2016) 9 SCC 20

⁸ (1992) 3 SCC 124



*Singh*⁹, the Supreme Court has held that Courts should not interdict disciplinary proceedings while they are in progress, unless the case is one in which the proceedings are entirely without jurisdiction or if the acts alleged against the Charged Officer, even if taken as true, do not constitute misconduct.

12. The ground on which the petitioner sought to interdict continuance of the disciplinary proceedings, viz, that the proceedings had been instituted in violation of Rule 9(2)(b)(ii) of the CCS (Pension) Rules is, in our considered opinion, at best an arguable ground, which could not constitute a basis for seeking quashing of the disciplinary proceedings in the bud, without allowing the enquiry to proceed.

13. Without, therefore, lending our imprimatur to the findings of the Tribunal, we are also of the opinion that the petitioner's OA ought not to have been entertained.

14. Mr. Sharma informs us that this Court had allowed the disciplinary proceedings to continue but had restrained the Disciplinary Authority from passing any final order in the matter. He submits that, thereafter, the enquiry was concluded, the Inquiry Officer had exonerated the petitioner, the Disciplinary Authority had disagreed with the findings of the Inquiry Officer and had issued a disagreement note to the petitioner and that the petitioner has

⁹ (1994) 3 SCC 357



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responded to the disagreement note.

15. We, therefore, dispose of this petition by directing the Disciplinary Authority to take a final decision in the disciplinary proceedings, after granting an opportunity of hearing to the petitioner, within a period of four weeks from today. In the said proceedings, the petitioner would be at liberty to raise the contention that the charge sheet was issued in violation of Rule 9(2)(b)(ii) of the CCS (Pension) Rules. In case such a contention is raised, the Disciplinary Authority is directed to specifically return reasoned findings on the said contention, while passing the final order.

16. Needless to say, should the petitioner continue to remain aggrieved by the decision of the Disciplinary Authority, remedies available in law to him shall stand reserved.

17. We also direct that the Disciplinary Authority would, while taking a decision in the matter, not be inhibited or influenced in any way by the impugned judgment dated 1 April 2019 passed by the Tribunal or by any observations or findings contained therein.

18. The petition is accordingly disposed of with no orders as to costs.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

FEBRUARY 10, 2025/sk

Click here to check corrigendum, if any

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