

Union of India Vs. Deepak Panwar

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Court : Delhi

Decided On : Jul-28-2011

Judge : Sanjiv Khanna, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : W.P.(C) 5298/2011

Appellant : Union of India

Respondent : Deepak Panwar

Advocate for Def. : Mr. Ashish Nischal, Adv.

Advocate for Pet/Ap. : Mr. Jayendra, Adv.

Judgement :

1. In this writ petition filed on or about 5th May, 2011, Union of India, Ministry of Urban Development, has assailed the order dated 21st April, 2010 passed by the Central Administrative Tribunal, Principal Bench, Delhi (for short, the tribunal) allowing O.A. No. 3167/2009 filed by the respondent-Deepak Panwar. The writ petition is filed belatedly and there is delay of more than one year in filing of the writ petition. The only ground mentioned is that the matter was sent to the Ministry of Law for obtaining consent and the delay is not intentional. This explanation without details does not merit acceptance.

2. The aforesaid aspect is important as the tribunal had allowed the original application filed by the respondent and quashed the Memorandum of Charge dated 16th September, 2009 on the ground of delay. The said memorandum pertains to the period 1997-98, when the respondent was working as an Executive Engineer (Civil), Bikaner, Rajasthan and was the Engineer-in-Charge for construction of 20 numbers light/medium vehicles garages. The allegation against the respondent is that the work was executed in the absence of approved structural designs/drawings, ignoring provisions of technical sanctioned estimate and architectural drawings and he had failed to effectively supervise the work as result cracks had appeared in beams, roof slabs and brick masonry columns, entailing an extra expenditure of about Rs.86,000/- in repairs. The tribunal noticed that the charge sheet had been issued after a gap of about twelve years. Further, the so-called cracks had been reported in the year 2000-01 and there was no explanation for the delay of more than eight years between 2001 and 2009 when the charge sheet was issued. The tribunal has examined the said aspect in detail in paragraphs 7 and 8 of the order. The tribunal also noticed the difficulty, problem and prejudice caused to the respondent because of delay in the initiation of the disciplinary proceeding in the present case keeping in view the nature of the memorandum. It would be difficult or rather impossible for the respondent to collect the material, papers/documents and remember what had happened. The present case is not one where there is an allegation that the respondent had indulged in any financial irregularity.

3. Keeping in view the facts found and the reasoning given by the tribunal, we are not inclined to exercise discretionary jurisdiction under Article 226 of the [Constitution of India](#), in a matter which shows that at every stage there has been delay and laches on the part of the petitioner. The writ petition is accordingly dismissed.