



GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI,
DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT
1, PT. RAVI SHANKAR SHUKLA LANE, K. G. MARG, NEW DELHI-110001

F.3(13)WCD/Nig./2018/ 41062-70

Dated:

ORDER

25 FEB 2019

WHEREAS, major penalty proceedings under rule 14 of the CCS (CCA) Rules, 1965 were instituted against Ms. Poonam, Caretaker, vide Memorandum dated 25.02.2011, on the following article of charge :-

Article of Charge

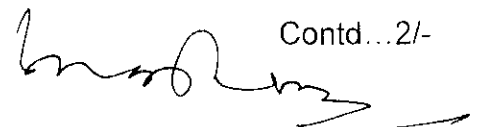
A team of officers consisting of DSWO (West), Supdt. of CHG-I and Welfare Officer of CHG-I has submitted a report informing that one mobile phone was recovered from one of the inmates named Santosh. This has been verbally confirmed by other inmates of CHG-I that said mobile phone was provided by Smt. Poonam, Care Taker.

AND WHEREAS, the Statement of Imputations in support of the article of charge framed against Ms. Poonam, Care Taker, purporting to be in violation of conduct rules, exhibiting lack of integrity and conduct of unbecoming of a government servant in contravention to the provisions of Rule 3 of the CCS (Conduct) Rules, were drawn as under :-

"It is reported that one mobile recovered from the inmate Santosh (Love Case). After inquiry it is found that the mobile came in the institution through a part time sweeper namely Champa, who is working in CHG. As per the statement, the mobile was given to her by Ms. Poonam, Care Taker, who was previously working as a Caretaker in GHG - I for onward handing over it to Santosh, inmate of CHG-I.

A meeting to inquire this matter was conveyed by the DO (West) on 20.11.2003. It is observed during the meeting that Ms. Poonam, Caretaker was adamant for the matter and found guilty in the case. It is also reported by the team of officers that Smt. Poonam, Caretaker misbehaves with senior officers of the Home very often"

AND WHEREAS, the charged official denied the charges framed against her and accordingly, the Inquiry Proceedings in the present case against Ms. Poonam, Caretaker

 Contd...2/-

were initiated somewhere in the year 2013. However, due to several changes of the IOs & POs, the inquiry proceedings were finally assigned to Shri Ravinder Kr. Yadav, Supdt. as the Inquiry Officer vide Office Order dated 11.08.2016 and Shri Shyamender, Welfare Officer as the Presenting Officer vide Office Order dated 16.09.2016.


AND WHEREAS, the Inquiry Officer after his appointment preferred to carry out the inquiry proceedings de-novo. The Inquiry Officer submitted the final inquiry report dated 11.09.2018, therein, holding the charge of article as 'not proved'.

AND WHEREAS, the then Director, DWCD, being Competent Authority perused the Inquiry Report and found that there are contradictions of facts and findings in the final inquiry report dated 11.09.2018 and issued a Disagreement to the findings drawn by the Inquiry Officer vide Order dated 25.10.2018.

AND WHEREAS, in compliance of the provisions of Rule 15 (2) of the CCS (CCA) Rules, 1965, a copy of the disagreement note alongwith copy of the Inquiry Report dated 11.09.2018, was served upon the charged official, with the liberty to file her representation, if she so desires, within 15 days.

AND WHEREAS, the charged officer after seeking extension of time for filing her representation, finally filed her reply dated 05.12.2018 and, inter alia, made the following submissions :-

- i). The charges levelled against me are false and frivolous, as during the concerned time I was not posted in the institution where the incident happened.
- ii). I did not knew any lady named Santosh. There was no such employee at that time.
- iii). Till now no records have been revealed to me showing that some mobile was recovered from the CHG-I.
- iv). I had never provided any mobile to the part-time worker Ms. Champa.
- v). I had never misbehaved with any of my colleagues or any officers.

 Contd...3/-

- vi). There is no material record to prove if any mobile was provided by me to any inmate, nor there is any record to show if any mobile was recovered from the institution.
- vii). I did not cross-examine the witnesses, as there was no record of recovery of mobile available with the authorities.
- viii). I have been falsely implicated in the present case.

AND WHEREAS, I have perused the chargesheet, Inquiry Report, evidence on record, disagreement note and evidence on record and submissions made by the Charged Officer. I find that the inquiry proceedings in the present case are quite belated and were also carried out in a haphazard manner which is not expected on the part of the senior officer assigned with an inquiry. However, absence of the seizure memo of the mobile phone and related documents, poses a serious question on the genuinity of the charges levelled against the charged officer. Even if it was a lapse on the part of the then officers then the benefit should go to the charged officer. It is an accepted fact that the disciplinary proceedings under the CCS (CCA) Rules are not governed by the strict rules of Law of Evidence, but are guided by the principles of 'preponderance of probability'. However, the principles of preponderance of probability can be invoked only on the basis of 'reasonable doubt', which is "***a mean between excessive caution and excessive indifference to a doubt. A reasonable doubt must be a practical one and not an abstract theoretical hypothesis.***" Resultantly, however strong the suspicion may be, it cannot take the place of proof. Strong suspicion, coincidence, grave doubt cannot take the place of proof. Always a duty is cast to ensure that suspicion does not take place of the legal proof.

While the afore discussion supports the case of the charged officer, however, the genuinity of the contents of the minutes of the meeting held by the then District Officer dated 20.11.2009, cannot be simply negated.

Contd...4/-



Hence, in view of the afore discussion and keeping in mind all the available records, I, **S. B. SHASHANK, DIRECTOR (DWCD), GNCTD**, being the Disciplinary Authority in the present case, is of the view that it would be just and fair to impose a minor penalty on the charged officer rather than a major penalty. Accordingly, I order '**CENSURE**' under Rule 11 of the CCS (CCA) Rules, 1965, upon Ms. Poonam, Caretaker, with immediate effect.



(**S. B. SHASHANK**)
DIRECTOR, DWCD

F.3(13)/WCD/Vig./2018/41062-70

Dated: 12 5 FEB 2019

Copy for information to :-

- 1). PS to the Secretary, Department of Social Welfare/DWCD, GNCTD, GLNS Complex, Delhi Gate, New Delhi – 110 002.
- 2). Deputy Director (Admn.), DWCD, GNCTD, 1, Pt. Ravi Shankar Shukla Lane, K G Marg, New Delhi – 110 001.
- 3). The Supdt. (Admn.), DWCD, GNCTD.
- 4). PAO through the concerned DDO.
- 5). DDO/HOO concerned through Supdt.(Admn.), DWCD, GNCTD.
- 6). Sr. System Analyst, DWCD, for uploading this order on the website of the department.
- 7). Service Book of the concerned through Supdt. (Admn.), DWCD, GNCTD.
- 8). Ms. Poonam, Caretaker, through Supdt. (Admn.), DWCD, GNCTD.
- 9). Guard File



(**J. K. JAIN**)
Joint Director (Vig.)