
(2021) 02 CAT CK 0132
In the Central Administrative Tribunal
Case No : Original Application No. 57 Of 2018

Adarshvir Singh

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 24-02-2021

Acts Referred:

Citation : (2021) 02 CAT CK 0132

Hon'ble Judges : L. Narasimha Reddy, J; Mohd. Jamshed, Member (A)

Bench : Division Bench

Advocate : U. Srivastav, Neelima Rathore, Manish Kumar

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. It is not without a reason that the Research Establishments in the various Ministries including Defence Ministry could not progress well, much less, compete with the developments in the other parts of the world. It hardly needs any mention that the progress in the research organisations can take place only when the Scientists do the work with a sense of dedication and commitment. This OA presents a sample of a category of Scientists that are on the rolls of the reputed organisations. Here itself, we add a caveat that there are many reputed and dedicated Scientists regarding whom, the country would be proud of. It is due to their contribution, the progress is made. The effort is only to highlight that had such a dedication been there on the part of other Scientists also, it would have been far better.

2. The applicant was selected and appointed as Scientist B in the Defence Research and Development Organization (DRDO) in the year 2005. On completion of 4 years of service, he was promoted to the post of Scientist C, and he was working at the office of the Director, ADRDE, Agra.

3. The applicant states that he intended to improve his qualifications and

accordingly made representations dated 01.06.2009 and 12.06.2009, for permitting him to apply for admission into the two years' MBA program, in the Universities/Business Schools. The respondents are said to have addressed a letter dated 06.11.2008, requiring him to provide all the information, in proper format, together with a copy of the advertisement. Thereafter, the applicant applied for and got admission in the one year MBA program in the Oxford University, England. Without waiting for sanction or permission of leave, he left the country in 2009, and came back only on 09.01.2013.

4. The applicant was issued a charge memo dated 05.04.2013, alleging that he remained unauthorizedly absent for a period of three years between 26.09.2009 and 08.01.2013. Further allegation was that he got admission in the MBA course in Oxford University, without obtaining the No Objection Certificate(NOC) and that he left the country in contravention of the prescribed procedure. It was also alleged that he misused his official position. The applicant submitted his explanation and not satisfied with that, the disciplinary authority appointed the Inquiry Officer.

5. The applicant contends that the Inquiry Officer submitted his report on 07.06.2015 and when a copy thereof was furnished to him, he submitted a representation dated 16.06.2015. It is stated that the further enquiry was ordered and accordingly another report was submitted on 22.12.2016, and that he submitted an explanation on 04.01.2017. The disciplinary authority passed an order dated 20.07.2017, imposing the penalty of reduction of pay scale by two stages for three years, without cumulative effect. He filed this OA challenging the order of punishment.

6. The applicant contends that the prescribed procedure was not followed and the representations, submitted by him at various stages, were not taken into account. It is also stated that he had applied for sanction of leave for joining the MBA course, and the respondents neither rejected his request nor sanctioned the leave. Certain other grounds are also urged.

7. The respondents filed a detailed counter affidavit. It is stated that being a responsible Scientist in the reputed organization, the applicant was supposed to obtain NOC before joining the foreign university and he violated all the norms in this behalf. It is stated that the prescribed procedure was followed at every stage and a minor penalty was imposed.

8. We heard Mr. U. Srivastava, learned counsel for the applicant and Mr. Manish Kumar, learned counsel for the respondents.

9. The applicant joined the respondents organization in the year 2005, as Scientist B, and was promoted as Scientist C in the year, 2009. At a time when he was about to be promoted as Scientist D, he made efforts to acquire the additional qualifications.

10. Whatever be the intention of an official or Scientist in obtaining additional

qualifications, that can take place only after the Government or the Organization, sanctions leave and accords permission. This is particularly so, when the proposed study is in a foreign country. The department has to examine the factors like relevance of the course, which the employee intends to study, the state of affairs that would emerge on account of the non-availability of the employee during study etc.,. If the organization is entrusted with sensitive functions, the scrutiny would be a bit stringent.

11. The applicant has taken admission in the MBA course in the Oxford University, without either obtaining leave or NOC. If one takes into account, the fact that the applicant is employed in a sensitive and strategic organization like DRDO, such violation would entail serious punishment. In addition to the factors of serious indiscipline, the other factors such as safety to the sensitive information in the organization, are also involved. There is no denial of the fact that the applicant did not obtain leave or NOC for undertaking a study in foreign country. The mere expectation of the applicant that the leave may be granted, cannot at all accepted.

12. During the course of the arguments, learned counsel for applicant raised the contention that once a report was submitted by the Inquiry Officer on 07.06.2015, and explanation of the applicant was sought, there was no basis for the respondents to undertake further inquiry that resulted in submission of the report dated 22.12.2016.

13. We would have dealt with that contention in case the applicant has raised any objection or protested at the relevant stage. In the impugned order itself, it is mentioned that the disciplinary authority found some inadequacies in the inquiry proceedings and remitted the case back to the Inquiry Officer, in accordance with the procedure prescribed under the law. Thereafter, the Inquiry Officer submitted the report on 27.10.2016. The occasion for us to examine whether the direction issued for conducting further inquiry would have arisen, if only the applicant challenged the same at the relevant point of time. Without any demur he participated in further inquiry. In addition to that, when the report of the Inquiry Officer dated 27.10.2016, was furnished to the applicant to enable him to submit a representation, the manner in which he responded to the same, is a bit interesting. He submitted his explanation through letter dated 04.01.2017. The letter reads as under :-

"Through Director ADRDE

I have gone through the final inquiry report received with the above referred letter from ADRDE Admin and I do not agree with the adverse conclusion drawn as same cannot be logically deducted from the matter presented during the proceedings and I will challenge them in court of law at appropriate time after final verdict. You are requested to go ahead with the formalities of wrapping up the process of inquiry as I am not willing to put any more energy and time into the matter at organization level."

A perusal of the same discloses that the applicant was virtually throwing a challenge to the Administration and he has in fact provoked them to pass orders so that he can institute judicial proceedings. No Department or Government, worth its name, can put up with such challenges. All the same, the representation of the applicant was taken into account and the disciplinary authority passed an order of punishment. If one takes into account, the gravity of the charge framed against the applicant as held proved in the inquiry, and the challenge thrown by the applicant, the punishment imposed by the disciplinary authority, cannot be said to be either disproportionate or uncalled for.

14. It is also evident that the applicant filed an appeal against the order of the disciplinary authority. It is not maintainable in view of the fact that the order was passed in the name of the President, and no appeal lies against it.

15. We do not find any illegality or infirmity in the order passed by the respondents. The OA is accordingly dismissed. There shall be no order as to costs.