
(2011) 02 DEL CK 0255

In the Delhi High Court

Case No : Writ Petition (Civil) No. 763 of 2011 and CM No. 1617 of 2011

Ashok Kumar Sharma

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 07-02-2011

Acts Referred:

Citation : (2011) 02 DEL CK 0255

Hon'ble Judges : Dipak Misra, C.J; Sanjiv Khanna, J

Bench : Division Bench

Advocate : M.K. Bhardwaj, for the Appellant; Mukesh Anand, R.C.S. Bhadoria, Shailesh Tiwari and Jayendra Singh, for the Respondent

Final Decision : Dismissed

Judgement

Sanjiv Khanna, J.—The Petitioner by this writ petition filed on or about 16th August, 2010 has impugned and assailed the order dated 9th July, 2009 passed by the Central Administrative Tribunal affirming the order passed by the Respondent-authority imposing punishment of reduction of pay by four stages for a period of four years with effect from 1st December, 2006. There is hardly any explanation or reason given for the delay between 9th July, 2009 when the impugned order was passed by the Central Administration Tribunal and 16th August, 2010 when the writ petition was filed after a gap of more than one year. The writ petition was returned under office objection and the Petitioner has taken about 4-5 months to remove the objections.

2. Apart from the delay, on merits also we do not see any reason to interfere. The allegations against the Petitioner, as reproduced in paragraph 10 of the judgment of the tribunal, are as under:

From a perusal of the original records, we find that the charge against the applicant (as contained in Annexure-A of the charge memo No. 11/10/11-Confid./94/246-48 dated 9.3.1994) was that he had made a false complaint in the name of Sanjay Tiwari against Shri J.R. Khatri, Supdt. And that this

amounted to conduct unbecoming of a Government servant and was in violation of Rule 3(1)(iii) of the CCS(Conduct) Rules, 1964. It is also seen from Annexure-II and Annexure-III attached with the above memo dated 9.3.1994 that one of the documents on the basis of which the charge against the applicant was proposed to be proved was the letter dated 07.11.1990 written by Shri Ashok Kumar Sharma, Sepoy. Although the applicant denied the charge, as averred by the Respondents, he did not deny in clear and categorical terms writing the leave application dated 7.11.1990. The following extract of the report dated 30.05.2001 of the Inquiry Officer is pertinent in this connection:

Shri Ashok Kumar Sharma during the course of his earlier examination admitted the writings on his leave application that of his own. In the proceedings before me he denied the writings on his leave application but admitted the signature thereon was his own signature.

3. The Petitioner was awarded punishment of reduction of pay by four stages for a period of six years with effect from 1st December, 2006 by the disciplinary authority. On appeal, the Appellate authority modified the punishment from six years to four years vide order dated 12th January, 2007.

4. Learned Tribunal has refused to interfere with the findings recorded in the disciplinary proceedings and the punishment awarded. We find that the issue and grounds raised before the Tribunal were purely factual and this aspect has been dealt with by the Tribunal in paragraphs 11 to 13 of the impugned order dated 9th July, 2009. Thereafter the Tribunal has observed that there was no justification and cause to interfere with the factual matrix having regard to the findings given by the disciplinary authorities, while exercising power of judicial review. We do not find any infirmity or illegality in the said order which requires interference under Article 226 of the Constitution of India. The present writ petition is accordingly dismissed in limine.