

(2019) 03 CAT CK 0017

In the Central Administrative Tribunal

Case No : Original Application No. 1796 Of 2018

Chandra Mohan Sharma Vs Union Of India Through ?

Date of Decision : 01-03-2019

Acts Referred:

Central Civil Services (Classification, Control And Appeal) Rules, 1965 — Rule 19(iii)
Constitution Of India, 1950 — Article 311

Citation : (2019) 03 CAT CK 0017

Hon'ble Judges : L. Narasimh Reddy, J; Mohd. Jamshed, J

Bench : Division Bench

Advocate : Hanu Bhaskar

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicant joined the service of Cabinet Secretariat, Government of India as Deputy Field Officer (General Duty) on 11.04.1986. He was promoted to the post of Field Officer (General Duty) in the year 1995, and was posted at various places, mostly in the State of Jammu & Kashmir. On 14.12.2000, he was selected for foreign assignment, and in the year 2001, he was posted as Assistant Consular Officer in Consular Wing of Embassy of India, Brussels. On 02.08.2004, he was transferred to headquarters at New Delhi, and two years thereafter, he was selected for deputation to work in Aviation Research Centre. On completion of deputation period, he was repatriated to the parent department in the year 2009, and on 06.08.2013 he was promoted to the rank of Deputy Commissioner.

2. It is stated that the applicant's case was cleared for 2nd foreign assignment in May, 2015, and was imparted training as a Diplomat. On 06.10.2015, he was posted on foreign assignment at Zahidan, South-east Iran. On 26.05.2017, he was recalled to India from Zahidan. He assumed the charge of Under Secretary on 29.05.2017 at headquarters at New Delhi. Through an order dated 14.09.2017, the applicant was dismissed from service by the President of India, by invoking powers under Clause 2 (c) of Article 311 of the Constitution of India read with Rule 19 (iii) of CCS (CCA) Rules, 1965. The said order is challenged in

this OA.

3. The applicant contends that the 2nd respondent was inimically disposed against him, ever since the 1st foreign assignment was given to him to work in Brussels, and that after the 2nd respondent became Secretary, various steps adverse to the interest of the applicant were taken. He contends that the impugned order is passed in violation of the guidelines issued by the DoP&T from time to time, and that the benefit of long service rendered by him over the decades was denied without any basis. A detailed reference is made to the Office Memorandums issued by the DoP&T from time to time.

4. Since the President exercised the power under Clause 2 (c) of Article 311 of the Constitution of India by observing that it is not expedient to hold an inquiry, we directed learned counsel for the respondents to produce the relevant record in a sealed cover before us. The record was accordingly handed over to us.

5. We heard Shri Kumar Abhishek and Shri Swaraj Sahay, learned counsel for the applicant and Shri Hanu Bhaskar, learned counsel for the respondents at length and perused the record.

6. The progression of the applicant in his career was indeed impressive and he held various positions, over the period. The record discloses that various complaints were received about the acts and omissions on the part of the applicant when he was working at Zahidan. We do not feel it appropriate to mention the incidents and events as reflected in the record, in this order. In the course of dealing with the case, the opinion was expressed at higher levels to the effect that holding of disciplinary inquiry would not be in the interest of the Country. In view of the fact that sensitive issues were involved, recourse was taken to recall Clause 2 (c) of Article 311 of the Constitution of India read with Rule 19 (iii) of CCS (CCA) Rules, 1965. We are satisfied that there existed valid basis for invoking the procedure contemplated under those two provisions.

7. Once the decision to invoke the provisions referred to above was taken, the case was dealt with at various levels. The committees consisted of the officers of highest levels in the establishment, and the case was examined in detail, before the conclusion to make the recommendation to the President of India, was arrived at. We are convinced that it is only the gravity of the acts and omissions on the part of the applicant, that warranted the severe punishment, and not any other factor. Discussion beyond this, would defeat the very purpose of invoking Article 311 (2) (c) of the Constitution of India and Rule 19 (iii) of the Rules.

8. The plea raised by the applicant as regards compliance with the office memorandums of DoP&T which are mostly about the consultation process, is examined in detail. From a perusal of the record, we find that all the steps contemplated under the Rules were scrupulously followed.

9. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.