

(2019) 05 CAT CK 0071

In the Central Administrative Tribunal

Case No : Original Application No. 3889 Of 2014

Constable Shaliender Singh

APPELLANT

Vs

Govt. Of Nctd Through

RESPONDENT

Date of Decision : 10-05-2019

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19
Central Civil Services (Conduct) Rules, 1964 — Rule 3

Citation : (2019) 05 CAT CK 0071

Hon'ble Judges : Pradeep Kumar, J; Ashish Kalia, J

Bench : Division Bench

Advocate : Sachin Chauhan, Amit Anand

Final Decision : Dismissed

Judgement

1. This Original Application has been filed by the applicant under section 19 of the Administrative Tribunal's Act 1985, seeking the following main relief:-

i) To quash and set-aside the impugned order dated 25.06.2012 whereby the major punishment i.e. forfeiture of two (2) years approved service permanently entailing reduction in pay from Rs. 7700+GP Rs.2000/- to Rs. 7130/-+ GP 2000/- is imposed upon the applicant and order dated 15.02.2013(received on 21.02.2013) whereby the appeal of the applicant is rejected by the Appellate Authority thus causing great prejudice to the applicant to further direct the respondents that the forfeited years of service alongwith pay scale and increment be restored as it was never forfeited with all consequential benefits including seniority and promotion and pay and allowances.

ii) To quash and set-aside the order dated 20.03.2010 whereby a Departmental Enquiry was initiated against the applicant.

iii) To quash and set-aside the findings of the enquiry officer. Or /and Any other relief which this Hon'ble Court deems fit and proper may also awarded to the applicant.

2. The applicant joined in Delhi Police in the year 2003, he was falsely implicated in FIR No.198/2008 dated 03.05.2008 U/S 498-A/406 IPC, PS Behror, Distt. Alwar, Rajasthan and further he was acquitted from the charge levelled against him by the Learned Trial Court on 04.06.2010 by Addl. Chief Judicial Magistrate, Bahror, District-Alwar. On 19.05.2008, Behror Police came to Office of applicant but could not meet as he was out of station with prior permission. Behror Police officers met DCP and applicant received a phone call and was informed about the same. The applicant asked Inspector Rakesh Sangwan to send the true copy of DD entry to concerned branch for intimation purpose as he is having no intention to concealing the information from the department.

On 20.03.2010 applicant was dealt departmentally vide order dated 20.03.2010 on the allegation of "he married to Smt. Krishna D/o Rati Ram r/o Kankra Barrod, PS-Behror, District -Alwar, Rajasthan on 23.11.2005 as as per the Hindu Rites and Customs. He alongwith his family members demanded dowry from his wife and her relatives. He tortured her wife physically and mentally, for not full- filling the demand of dowry. A case F.R.R. No. 198/2008 dated 03.05.2008 u/s 498-A/406 IPC, PS Behror, Distt. Alwar, Rajasthan was registered and investigated. During the investigation he was arrested on 11.07.2008 as per record of P.S. Behror, the following facts were noticed against Ct. Shailender Singh, No. 1972/W:-

1. That a case F.I.R. No. 198/2008 dated 03.05.2008 u/s 498/406 IPC, P.S. Behror, Distt. Alwar, Rajasthan is stand registered against him.
2. That he arrested in the same case on 11.07.2008 during the investigation and now on bail in the same case.
3. That charge-sheet against him vide No.C.S. 208/2008 dated 14.07.2008 has already been filed in the court by police for trial and the same is pending trial before the court.
4. That being a government servant he is not supposed to show such type of gesture which is not acceptable to any of the civilized society.
5. That he had not intimated the department about the registration of criminal case against him as well his arrest in the case on 11.07.2008".

3. The summary of allegation was served to Applicant. He has submitted defence statement on 30.05.2012. Enquiry Officer in its report proved charge against Applicant vide its report dated 23.05.2012. Thereafter Disciplinary Authority imposed penalty of "forfeiture of two years approved service permanently entailing proportionate reduction in his pay from Rs.7700/- to Rs.7130/- and appeal preferred by the applicant was rejected vide Appellate order dated 15.02.2013.

4. The applicant has submitted there is no misconduct as departmental enquiry was initiated on the allegation that he did not inform the department about the Registration of F.I.R. against him as well as arrest in the case on 11.07.2008, as

he had requested to Inspector Rakesh Sangwan to send true copy of DD entry to concerned Branch. In the entire Departmental Enquiry, there is no mention of violation of any rule, guidelines or instructions in this regard and punishment so imposed is too severe, harsh and disproportionate. The respondents filed their counter reply and submitted therein that the applicant married to Smt. Krishna. He alongwith family members demanded Dowry from wife and in-laws and F.I.R. was registered on 03.05.2008, he was arrested on 11.07.2008 as per records of P.S. Behror, Rajasthan, following facts were notice against him as under:-

1. That a case FIR No. 198/2008 dated 03.05.2008 u/s 498-A/406 IPC, P.S. Behror, District Alwar, Rajasthan was registered against him at PS Behror.
2. That he was arrested in the same case on 11. 07.2008.
3. Charge Sheet against him was filed in the court vide C.S. 208/2008 dated 14.07.2008.
4. That being a government servant he is not supposed to show such conduct which is not acceptable in a civilized society.
5. That he had not intimated the department about the registration of criminal case against him as well as his arrest in the case on 11.07.2008.
5. After examining 8 Nos. PWs, allegations against applicant were proved in the departmental enquiry. Applicant was given full opportunity to cross examine them by the Enquiry Officer but neither he availed this opportunity nor any document/ information has been produced in his defence. The Disciplinary Authority carefully considered all aspect of the departmental enquiry proceeding and followed the rule of Natural justice, fair Play and the personal hearing was also granted, then only the said punishment was awarded to him.

Thereafter appeal was preferred by the applicant which was also considered by Appellate Authority and rejected vide its order dated 15.02.2013.

6. Heard learned counsel for the parties and perused the records and legal position in this regards.

7. The applicant assailed the present departmental enquiry proceeding on the ground that he has not violated any guideline / instruction by not informing the lodging of the FIR against him to the department. In support of applicant following judgments are cited in support of his case:-

1. Judgment dated 27.08.1997 in case of UOI Vs. G.Ganayutham.
2. Judgment in Civil Appeal No.2302/2005 titled Govt. of Andhra Pradesh vs. A. Vankata Rayudu.
3. Judgment in OA No. 432/2013 dated 04.10.2018 titled High Court Shishu Pal Vs. GNCTD and Hon?ble High Court judgment dated 15.04.2019.
4. S.R. Tewari Vs. UOI (2013) 6 SCC 602.

5. G. Seenivasgam Vs. Inspector General & Ors. W.P(c) 1275/2011.
6. Copy of Hon?ble High Court judgment in WPC No.3691/2017.
7. Copy of Hon?ble High Court judgment in WPC 1354/2015 titled Vinod Kumar vs. GNCTD.
8. The judgments cited by the applicant are appreciated by this Tribunal. The crux of these judgements are that if punishment awarded is such which shocks the conscience of court being harsh and is not commensurate to the charge, the fair opportunity be given to the delinquent to defend himself. In our view, these judgments are quite distinct in the facts and circumstances of the present case.
9. On the contrary department has submitted that Applicant should have informed to the Department about Registration of FIR against him and the applicant has concealed this information from the department so he has violated the Rule 3 of the CCS (Conduct) Rules 1964, which is unbecoming of a Government Servant.
10. After weighing pros and cons of the above said case, we found that the applicant being a member of disciplined force ought to have informed the said information immediately to the department which he has not done. We are in total agreement with the respondents in this regard that every Govt. Servant should maintain total devotion and integrity while discharging the duties and suppression of such a vital information Registration FIR falls within the purview of the Rule 3 of the CCS conduct Rules 1964. Conduct of the applicant is unbecoming of a Govt. Servant. The plea of applicant that he has not violated any rules or guidelines has no force thus not accepted by this Tribunal. As regards to applicant?s plea that punishment is severe or harsh, the same is the domain of Disciplinary Authority, and this Tribunal cannot step into shoes of Disciplinary Authority. This Tribunal can interfere only when the punishment awarded is so harsh or perverse which shocks the conscience of the Tribunal which is not the case here. The applicant has not given any cogent reason for non-disclosure of the information to the department. The plea that he has asked Inspector Sangwan to send the DD entries to his department that too late when Rajasthan Police has reached at the Delhi and disclosure was made to the Delhi Police, has also failed to convince this Tribunal.
11. In view of the facts and circumstances of the case and legal position discussed above, we are of the view that the present OA lacks on merit and the same is rejected with no order as to costs.