

(2019) 12 CAT CK 0021

In the Central Administrative Tribunal

Case No : Original Application No. 3370 Of 2019

Dinesh Kumar

APPELLANT

Vs

Government Of NCT Of Delhi

RESPONDENT

Date of Decision : 12-12-2019

Acts Referred:

Central Civil Services (Classification, Control And Appeal) Rules, 1965 — Rule 14
Central Civil Services (Conduct) Rules, 1964 — Rule 3(1)(i)(ii)(iii)
Constitution Of India, 1950 — Article 226, 227

Citation : (2019) 12 CAT CK 0021

Hon'ble Judges : Vijay Lakshmi, J; Pradeep Kumar, Member (A)

Bench : Division Bench

Advocate : Asish Nischal

Final Decision : Dismissed

Judgement

Vijay Lakshmi, J

1. The applicant, by means of this OA, has challenged the legality and correctness of the two orders dated 21.8.2017 and 29.8.2019 passed by the Disciplinary Authority (Chief Secretary, Directorate of Vigilance, Delhi) and the appellate authority (Hon"ble Lt. Governor, Delhi). The Disciplinary Authority had imposed the penalty on the applicant of "reduction to a lower stage in the time scale of pay by two stages for a period of two years, with further directions that the Government servant (applicant) shall not earn the increment of pay during the period of such reduction and on the expiry of such period, the reduction will have the effect of postponing the future increments of his pay" vide order dated 21.8.2017. The applicant preferred an appeal against the aforesaid order which was also rejected by Hon"ble Lt. Governor, the Appellate Authority vide order dated 29.8.2019.

2. We have heard learned counsel for the applicant on the point of admission of this OA and have perused the available records.

3. Keeping in view the peculiar facts and circumstances of this case, we are disposing of this OA finally, at the admission stage itself.

4. The facts in brief are that the applicant is working as a Motor Licensing Officer with the Transport Department of Govt. of NCT of Delhi. While he was working as Motor Vehicle Inspector at the seat of Permanent Driving License in Wazir Pur Zonal Office during the month of August 2009, a surprise inspection was conducted on 13.08.2009 by the departmental team on receiving several complaints that a large number of touts were operating at Wazir Pur Transport Authority Office. The Inspection Team noted gross irregularities committed by the applicant while issuing Permanent Driving License without following the mandatory requirements of mentioning vehicle registration numbers in Form No.4 and that too without taking the driving test of the persons applying for Driving License. It was also found that the applicant had failed to maintain the "driving test register" and he himself had devised an altogether different procedure for feeding results of driving test in a computer, making it unknown as to how many applicants appeared, passed and failed on a particular day or whether vehicle's physical test was actually conducted or not.

5. A departmental inquiry for initiating major penalty proceedings under Rule 14 of the CCS (CCA) Rules, 1965 was instituted against the applicant and accordingly, a chargesheet was served on him levelling following article of charges:-

"Article-I

That the said Sh. Dinesh Kumar, Motor Vehicle Inspector, while working at the seat of Permanent Driving License in Wazirpur Zonal Office during the month of Aug. 2009, committed gross irregularities in issue of Permanent Driving License viz. Issued permanent, driving license without following mandatory requirement of mentioning registration numbers of vehicles in Form No.4, issued Permanent Driving License to Shri Rajat Sachdeva (Receipt No.AV-6817 dated 27.07.09) & Shri Kartik Bhola (Receipt No. 7250 dated 03.08.09) on their unsigned applications that too without taking their driving tests. By the aforesaid acts the said Sh. Dinesh Kumar, Motor Vehicle Inspector, violated all the norms and regulations in issue of driving licenses.

By his above act, Shri Dinesh Kumar, Motor Vehicle Inspector has exhibited lack of integrity, devotion to duty and has acted in a manner unbecoming of a Government servant, thereby contravening the provisions of sub rule 1 (i)(ii)(iii) of Rule 3 of CCS (Conduct) Rules, 1964 and Central Motor Vehicle Rules, 1989 (CMV Rules).

Article-II

That during the aforesaid period and while functioning in the aforesaid office, at the seat of Permanent Driving License in Wazir Pur Zonal Office during the month of Aug. 2009, Sh. Dinesh Kumar, Motor Vehicle Inspector, committed gross

irregularities in as much as he did not maintain the Driving/Road Test Register for issuance of Permanent Driving Licenses in the Wazir Pur Zonal office. Instead, he admittedly devised an altogether different procedure of feeding result of driving tests in computer, making it unknown as to how many applicants appeared, passed or failed on a particular day or whether physical test was actually conducted or not. Sh. Dinesh Kumar, Motor Vehicle Inspector, adopted this procedure purposely to avoid detection of manipulations etc. and it shows that the Licenses were being prepared/ issued without actual physical driving test thus jeopardizing lives of the general public.

By his above act, Shri Dinesh Kumar, Motor Vehicle Inspector has exhibited lack of integrity, devotion to duty and has acted in a manner unbecoming of a Government servant, thereby contravening the provisions of sub rule 1 (i)(ii)(iii) of Rule 3 of CCS (Conduct) Rules, 1964 and Central Motor Vehicle Rules, 1989 (CMV Rules)."

6. The applicant denied the charges vide his written statement/representation dated 03.08.2012. However, the Inquiring Authority submitted his inquiry report dated 27. 06.2016 holding Articles I and II as proved. The Disciplinary Authority accepted the findings of the inquiry report. The applicant made a representation dated 17.4.2017 in which he admitted the Article of Charge No.I to the extent that Permanent Driving Licenses were issued by him to the persons seeking such licenses without obtaining the details of registered numbers of their vehicles. However, his explanation was that as some of the applicants had forgotten to bring their registered vehicles for the driving test, some vehicles have to be borrowed from other persons for driving tests, but the ratio of such cases was limited to 5%.

7. With regard to Article of Charge No.1I, the applicant claimed that irregularities committed were rendered superfluous after the computerization in issuance of Driving Licenses and there was no need to maintain the register due to augmentation of computerization of Zonal offices.

8. The Disciplinary Authority did not find any force in the defence taken by the applicant. Considering that taking of driving tests through the borrowed vehicles was in violation of the norms and regulations and discontinuation of maintenance of Driving Test Register without any order of competent authority was also in violation of the norms and regulations, the Disciplinary Authority found both the charges proved against the applicant.

9. The applicant being aggrieved, preferred departmental appeal before the Hon"ble Lt. Governor of Delhi (Appellate Authority). The Appellate Authority too found the appeal as devoid of merit in view of all the aforesaid facts and circumstances. The Appellate Authority was also of the view that the applicant had violated the standard procedure of issuing Driving Licenses because he himself has admitted the fact that Driving Licenses were issued without mentioning the vehicle registration numbers. Moreso, he has suo moto

dispensed with the procedural requirement of maintaining Driving Test Register, hence, the Appellate Authority did not interfere in the order passed by Disciplinary Authority and dismissed the appeal vide impugned order dated 29.08.2019.

10. The applicant has challenged the legality and correctness of both the aforesaid orders on the ground that allegations levelled against the applicant do not come under the ambit of misconduct and state only about some irregularities. No ulterior motive has been assigned to the applicant. There is no charge against the applicant that he dealt with any money transaction. Therefore, the disciplinary proceedings initiated against him and the punishment awarded being illegal, the same are liable to be quashed.

11. However, learned counsel for the applicant has not brought to our notice any violation of procedural rules in the above said departmental proceedings against the applicant.

12. We have given our thoughtful consideration to all the grounds raised by the applicant for challenging the legality of the impugned orders.

13. The scope of judicial intervention in departmental enquiries either by the Tribunals or by the Courts is very limited. In this regard, the legal position is well settled by the Hon"ble Supreme Court through a catena of judgments.

14. In the case of B.C.Chaturvedi Vs. UOI & Others (AIR 1996 SC 484) at para 12 and 13, the Hon"ble Supreme Court observed as under:-

"12.The Court/Tribunal on its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at the own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry of where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has co-extensive power to reappreciate the evidence or the nature of punishment."

In the case of Union of India and Others Vs. P.Gunasekaran (2015(2) SCC 610), the Hon"ble Supreme Court while laying down the guidelines has observed as under:-

"Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the enquiry officer. The finding on Charge

no.I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Article 226/227 of the Constitution of India, shall not venture into re-appreciation of the evidence. The High Court can only see whether:

- a. the enquiry is held by a competent authority;
- b. the enquiry is held according to the procedure prescribed in that behalf;
- c. there is violation of the principles of natural justice in conducting the proceedings;
- d. the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;
- e. the authorities have allowed themselves to be influenced by irrelevant or extraneous consideration;
- f. the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;
- g. the disciplinary authority had erroneously failed to admit the admissible and material evidence;
- h. the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;
- i. the finding of fact is based on no evidence."

15. Keeping in view the facts and circumstances of the present case as well as the law laid down by the Hon"ble Supreme Court, as referred to above, we do not find any force in the contentions raised by the learned counsel for the applicant for admission of this case as we do not find any illegality in the orders impugned in the present OA. Therefore, the present OA is liable to be dismissed at the admission stage itself and is accordingly dismissed. No costs.