

(2021) 03 CAT CK 0052

In the Central Administrative Tribunal

Case No : Original Application No. 451, 2183 Of 2020, Miscellaneous Application No. 562, 2365, 2779 Of 2020, Miscellaneous Application No. 468, 667 Of 2021

Dr. Krishan Chandra & Others

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 08-03-2021

Acts Referred:

Citation : (2021) 03 CAT CK 0052

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

Bench : Division Bench

Advocate : U Srivastava, Umesh Singh, Ranjan Tyagi, S.C. Sagar

Final Decision : Dismissed/ Disposed Of

Judgement

L. Narasimha Reddy, J

1. These two OAs are filed by the same individual namely Dr. Krishan Chandra. He was working as Director, National Centre for Organic Farming (NCOF), Ghaziabad under the Department of Agriculture, Cooperation and Farmers Welfare (DAC&FW). It appears that complaints were received alleging fraud and forgery in the Department, particularly in the context of quality testing of organic fertilizers. Pending a detailed inquiry, the respondents issued memo dated 31.07.2019, transferring 5 officers of the rank of Director, Regional Director, two Assistant Directors and one JSO to different places. The applicant was shifted from NCOF, Ghaziabad and posted to INM Division, DAC&FW, New Delhi. He filed OA No. 451/2020 challenging the said order.

2. The applicant contends that the allegations made against him are baseless and that the transfer was punitive. He further submits that there was no work at the place, to which he was transferred, corresponding to the position held by him.

3. The Appointing Authority of the applicant issued memorandum dated 03.04.2020 requiring him to explain as to why disciplinary action be not taken

against him. On the same day, he was placed under suspension through a separate order. On 30.06.2020, the review committee considered the matter pertaining to the suspension of the applicant and directed extension thereof by 180 days and an order was passed on that day accordingly. The applicant filed OA No. 2183/2020 challenging the above three orders. He submits that once an investigation was ordered, the respondents were under obligation to conclude that and placing him under suspension, is contrary to law. He pleaded that the suspension was extended without any basis and in an arbitrary manner.

4. The respondents filed detailed counter affidavits in both the OAs. They contend that the allegations against the applicant and certain other officers in the organization are very serious and accordingly, the orders of transfer were passed, enabling a fair and free investigation. They further submit that a show cause notice was issued requiring the applicant to explain as to why disciplinary action shall not be taken against him, and to enable an independent and effective enquiry into the matter, the applicant was placed under suspension. The circumstances, under which the suspension was extended, were also explained.

5. Today, we heard Mr. U. Srivastava and Mr. S. C. Sagar, learned counsel for the applicant in respective OAs and Mr. Ranjan Tyagi, learned counsel for the respondents.

6. The investigation that was taken up on receiving some complaints against the officials of the Department, gave rise to the transfer of as many as 6 officers, including the applicant. It is purely on administrative grounds. Added to that, it is not to a far off place. The applicant was shifted from an office at Ghaziabad to the one, at Delhi. For all practical purposes, it is just from one corner of Delhi to the another corner. The applicant cannot be said to have been subjected to any inconvenience on account of transfer. Though it is pleaded that the work referable to the post held by the applicant is not available at the office to which he is attached, he should not have any serious grievance as long as the emoluments are paid. Therefore, we are not inclined to interfere in the order of transfer.

7. The next challenge is to the show cause notice, the order of suspension and the order of extension of suspension. The show cause notice was issued requiring the applicant to state as to why disciplinary proceedings be not initiated against him. When law permits the respondents to initiate the disciplinary proceedings straightway, one cannot take any exception to a show cause notice issued in this behalf. It is stated that the charge sheet was, in fact, issued on 12.11.2020, during the pendency of this OA. The applicant has to submit his explanation and the departmental enquiry has to be conducted, depending upon the stand taken by the applicant.

8. Coming to the suspension of the applicant, we do not find anything extraordinary. Though the respondents initially seem to have felt that shifting of the persons to different places in the organizations would be sufficient to

undertake an enquiry, they chose to place the applicant under suspension, thereafter. Once the enquiry into the allegations is in progress, the extension cannot be said to be without any basis.

9. The applicant is scheduled to retire in August, 2021. Since there is already substantial progress in the matter in the form of the investigation before the charge memorandum having been issued, the disciplinary proceedings can be completed within a period of five months, before his retirement.

10. We, therefore, dismiss the OA No. 451/2020 and dispose of the OA No. 2183/2020, directing the respondents to conclude the disciplinary proceedings against the applicant within a period of five months, before the applicant retires from service. When the time comes for extension of suspension on expiry of 90 days, the representation of the applicant shall be taken into account and appropriate orders be passed. If any dues of subsistence allowance are pending, they shall also be released. Pending MAs also stand disposed of. There shall be no order as to costs.