

(2021) 03 CAT CK 0048

In the Central Administrative Tribunal

Case No : Original Application No. 1185 Of 2020

Dr. Praveen Jhamb

APPELLANT

Vs

Lt. Governor Of Delhi & Others

RESPONDENT

Date of Decision : 10-03-2021

Acts Referred:

Citation : (2021) 03 CAT CK 0048

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

Bench : Division Bench

Advocate : Rajeev Sharma, R.K. Jain

Final Decision : Partly Allowed

Judgement

L. Narasimha Reddy, J

1. The applicant joined the service of the Municipal Corporation of Delhi (MCD) as Veterinary Doctor on 25.05.1993. He was issued a charge memo on 04.04.2012 alleging that while acting as Veterinary Officer in Shahdara, Delhi, he allowed a meat shop to run in premises No. D-255 without license for a period of one year. It was also alleged that he did not seal the meat shop despite approval for sealing was accorded by the Deputy Commissioner of zone on 10.04.2020. It was further alleged that he failed to take action against the other illegal meat trade shops despite of repeated directions given by the Deputy Commissioner of Police.

2. The applicant submitted his explanation stating that he initiated steps, but further action could not be taken on account of law and order problem and in spite of his requests, the police did not extend help or assistance. Not satisfied with the explanation, the Disciplinary Authority (DA) appointed an Inquiry Officer (IO). The IO held the charge against the applicant as proved. Taking the same into account, the DA passed an order dated 28.05.2018 imposing the punishment of reduction in the time scale of pay by three stages, for a period of three years without cumulative effect. He preferred an appeal challenging the order of the DA. The appeal was rejected through order dated 18.04.2019. This

OA is filed challenging the order of punishment dated 28.05.2018 as well as the order of the Appellate Authority (AA) dated 18.04.2019.

3. The applicant contends that being the Veterinary Officer, he has initiated steps for closure of the unlicensed meat shops, but the action on the ground could not be taken, on account of the resistance by the traders. He contends that though the assistance from the Commissioner of Police was sought, the same was not extended. The applicant contends that the IO ignored the oral and documentary evidence, and recorded a finding without any basis.

4. The respondents filed the counter affidavit stating that the applicant failed to discharge his official duties, that too despite the repeated reminders by the Deputy Commissioner. They contend that on account of the inaction on the part of the respondents, the very public health was at stake and that the prescribed procedure was followed in the disciplinary proceedings at every stage.

5. Heard Sh. Rajeev Sharma, learned counsel for the applicant and Sh. R.K. Jain, learned counsel for the respondents.

6. The charge against the applicant reads as under:

"1. He deliberately favoured the meat shopkeeper by allowing him to run the meat trade at shop No. D-255, Gali No. 14, Gamri Extn. Delhi-53 without license for the last one year as it is evident from the report of the Veterinary Officer, Central meat Raid Team and did not seal above meat shop despite approval for sealing accorded by the Dy. Commissioner of the zone on 10.4.2010 i.e. about a year back.

2. He also failed to take action against the other illegal meat trade shops in spite of repeated directions by Dy. Commissioner, Shah. North Zone."

7. The allegation is that he allowed the meat shops to run in certain premises without license and despite specific directions from the higher authorities, for sealing the shops, he did not take any steps. The applicant did not dispute the fact that unauthorized meat shops were running in the area under his control. The record is silent as to the nature of steps taken by him for closure of the shops. During the course of inquiry, oral and documentary evidence was adduced. The IO opined that the mere addressing of letter to the Commissioner of Police would not serve the purpose and the applicant ought to have gone to the Police Station and take their help, if necessary. The net result is that there was a lapse on the part of the applicant in ensuring that unauthorized meat shops do not function or operate. Apart from the technical aspects, serious issues of hygiene and health also arise from the sale of the meat by the unauthorized traders in the unauthorized premises. The punishment imposed against the applicant is minor in nature and it cannot be said to be disproportionate.

8. However, we find some defect in the context of imposition of the punishment. Under the relevant rules, the reduction in time scale of pay by three stages for three years happens to be a major penalty. The DA passed an order of

punishment as though it was a minor penalty and he did not refer to any report of the IO, much less to the explanation offered by the applicant. He straightway proceeded to impose the punishment, just by referring to the factum, the opportunity of being heard was given to the applicant. The punishment of this nature would have its own impact upon the entire career of the applicant and he cannot be imposed the punishment in such a manner.

9. Though one option would have been to set aside the order of punishment and remit it back to the DA, we are of the view that the punishment can be modified to be the one, of minor penalty. Therefore, we partly allow the OA modifying the punishment to the one of withholding of three annual increments of the applicant for a period of two years, without cumulative effect and it shall be treated as a minor penalty.

There shall be no order as to costs.