
(2019) 01 CAT CK 0126

In the Central Administrative Tribunal

Case No : Original Application No. 4365 Of 2018, Miscellaneous Application No. 4948, 4949 Of 2018

Dushyant Kumar Bahri, Ex. Sr. Interpreter

APPELLANT

Vs

Union Of India Through Secretary And Ors

RESPONDENT

Date of Decision : 03-01-2019

Acts Referred:

Central Civil Services (Classification, Control And Appeal) Rules, 1965 — Rule 19(iii)
Constitution Of India, 1950 — Article 311(2)(c)

Citation : (2019) 01 CAT CK 0126

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

Bench : Division Bench

Advocate : Pratap Ch. Misra, Gyanendra Singh

Final Decision : Disposed Off

Judgement

L. Narasimha Reddy, J

1. The applicant was selected and appointed as Interpreter in the pay scale of Rs.6500-10500, through order dated 24.07.2000, in the Cabinet Secretariat. He was promoted to the post of Senior Interpreter in Group 'A' gazetted in February, 2010. He was sent on deputation to the Ministry of External Affairs on 20.07.2015. Thereafter, he was posted in the Indian High Commission, Islamabad in Pakistan through order dated 29.02.2016.

2. The President passed an order dated 16.08.2018, dismissing the applicant from service by exercising the power under clause (c) of the second proviso to Article 311 (2) of the Constitution of India, read with rule 19 (iii) of the CCS (CCA) Rules, 1965. It was stated that it is not expedient to hold an inquiry in the case, in the interest of security of the State. The applicant challenges the order of dismissal.

3. The applicant contends that during his service in Pakistan, he faced several challenges, and came across difficult situations, and he went on reporting the

same to the Indian High Commission in that country. He submits that there is no factual basis for imposing the extreme penalty, and that invocation of clause (c) of the second proviso to Article 311 (2) of the Constitution, read with rule 19(iii) of the CCS (CCA) Rules, 1965 in his case, is totally unjustified.

4. On behalf of the respondents, it was pleaded that it would not be in the interest of the State to require them to file counter-affidavit, and that the relevant file would be made available for perusal. On the direction issued in this behalf, the file was produced in a sealed cover without loss of time, and we perused the same.

5. We heard Shri Pratap Ch. Misra, learned counsel for the applicant, and Shri Gyanendra Singh, learned counsel for the respondents.

6. Initially the appointment of the applicant was as Interpreter in the Cabinet Secretariat. He was trained to discharge certain sensitive duties, and thereafter he was transferred to the Ministry of External Affairs. He was posted in the High Commission of India in Pakistan, by assigning him certain duties. What led to the issuance of the impugned order is indeed startling, and we find it not proper to mention the same in detail. However, an indication as to what may have prompted the respondents to pass the impugned order, is given by the applicant himself in para 4.6 of the OA. That, however, is only a part of the episode, that too, from his point of view. The facts contained in the file are really disturbing, and the record reveals that the security of the State was at stake on account of the acts and omissions of the applicant.

7. We are of the view that this is one of the fittest cases for invoking the exceptional provision, namely, clause (c) of the second proviso to Article 311 (2) of the Constitution, read with rule 19 (iii) of the CCS (CCA) Rules, 1965. For reasons of national security, we do not intend to make any further observations. In our eagerness to see whether any injustice has been caused to the applicant, we perused the record meticulously from various angles, but did not find anything that warrants interference by the Tribunal.

8. The OA is accordingly dismissed. There shall be no order as to costs. Pending MAs also stand disposed of.