
(2012) 02 DEL CK 0085
In the Delhi High Court
Case No : Writ Petition (C) 798 of 2012

Gaya Prasad

APPELLANT

Vs

Union of India and Ors

RESPONDENT

Date of Decision : 10-02-2012

Acts Referred:

Central Civil Services (Classification, Control and Appeal) Rules, 1965 — Rule 14, 3(1)
Central Civil Services (Conduct) Rules, 1964 — Rule 3A

Citation : (2012) 02 DEL CK 0085

Hon'ble Judges : V.K. Jain, J; Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : Party in Person, for the Appellant; Sachin Datta for the Respondent
No. 1, for the Respondent

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed, J

1. The petitioner, who appears in person, has challenged the order dated 27.01.2012 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA 273/2012, whereby the petitioner's said Original Application was dismissed. The relief sought by the petitioner before the Tribunal was for quashing of the allegedly frivolous, false and fabricated charge-sheet vide order No. 8/23/2010-Vig. II dated 19th August, 2010 at the earliest. The facts, as indicated before the Tribunal are set out in paragraph 2 of the impugned order and it would suffice if we would reproduce the same.

2. Briefly stated, facts of the case are that the applicant while working as Assistant Director in Telecom Engineering Centre, Department of Telecom, New Delhi, was issued a charge memo dated 19.08.2010, whereby it was proposed to hold an enquiry against him under Rule 14 of the CCS (CCA) Rules, 1965. It may be stated that before issuing the aforesaid memo the applicant was placed under suspension. The gravamen of the charge against the applicant, as can be seen from the statement of article of charge annexed with the memo as Annexure-I

and statement of imputation of misconduct/misbehaviour in support of articles of charge, Annexure-II, are that the applicant refused to abide by the instructions issued by his seniors, whereby he was directed to carry out the work of C&T Division and to put up the training proposals received from different officers of TEC, thus, he has failed to maintain absolute devotion to his duties and acted in a manner, which is unbecoming of Government servant, thereby contravening the provisions of Rule 3-A (a) and (b) of CCS (Conduct) Rules, 1964 and Rule 3 (1) (i), (ii) and (iii) of CCS (CCA) Rules, 1965. The second charge against the applicant was that applicant made frivolous and baseless complaint against the senior officers of the Department and used insulting and defamatory language against the superior officers and thus committed grave misconduct, which tantamount to insulting and insubordination to such a degree as to be incompatible with the relation of superior officers and subordinate officers. The charges against the applicant are required to be proved on the basis of 30 documents mentioned in the list of documents annexed with the memo (Annexure-III) and thus the charges were required to be proved on the basis of the list of witnesses annexed with the memo (Annexure IV). The challenge has been made to the aforesaid charge-sheet on the ground that the Director (C&T) and Director (Admn.) hatched a criminal conspiracy to cause him financial loss and mental harassment and the applicant was not provided with the sitting space, office accommodation, requisite resources, staff etc. and domain of work, duties and responsibilities were not provided to him despite being present in the office premises, despite the fact that he has made several requests for sitting space, requisite resources duties and working responsibilities. Whereas from the material placed on record, more particularly page-63 of the paper-book, it is evident that DDG (CT) has directed the applicant to sit in the office of PS to DDG (CT) and use resources/staff etc. present there and of Director (CT) till adequate resources/staff etc. are arranged for him, but despite that applicant refused to obey the instructions of senior officers, i.e., DDG (CT) and Director (CT) and did not perform the task assigned to him. A perusal of this document further reveals that since PS was not posted with DDG (CT), as such, as an interim measure applicant was directed by the DDG (CT) to sit in the said room and use the resources/staff etc. there, which are sufficient for him to carry out the tasks assigned to him. Perusal of this document further reveals that there is only one DDG, one Director and only one Assistant Director in CT Division. Whatever responsibilities are assigned to DDG (CT), Director has to assist him so that work is done efficiently. Likewise, the Assistant Director is required to assist Director and has to act as a supporting officer, but despite that applicant refused the official work, which is specifically assigned to him in writing by the DDG (CT) and the period during which applicant did not perform the duty was also treated as dies non. Be that as it may, as already stated above, the allegations against the applicant in the charge-sheet are regarding disobedience of the order passed by the superior authorities and also using insulting and defamatory language against his superior officers, it is not permissible for us at this stage to go into the truth and correctness of the charges leveled against the applicant. Whether

the charges are sustainable or not, is a matter to be gone into during enquiry proceedings and it is not a case of such nature where the charges framed against applicant are vague and are not elucidated by the statement of particulars or in any other manner or the disciplinary proceedings have been initiated by an authority incompetent to initiate such proceedings etc. Thus, it is not permissible for us to quash the charge-memo at this stage solely on the ground that the charges leveled against the applicant are result of a criminal conspiracy hatched by the Director (C&T) and Director (Admn.) of Telecom Engineering Centre.

2. The Tribunal placed reliance on the decision of the Supreme Court in the case of Transport Commissioner, Madras-5 Vs. A. Radha Krishna Moorthy, in order to support its conclusion that the truth and correctness of charges cannot be gone into by the Tribunal and more particularly at a stage prior to the conclusion of the disciplinary enquiry.

3. From the narration of facts referred to above, it is apparent that certain charges have been leveled against the petitioner and the petitioner also has very strong grievances with regard to the said charges. He is at full liberty to take whatever plea of defence he can before the Enquiry Officer and in that, there shall be no hindrance insofar as the enquiry proceedings are concerned. Insofar as the interference of the Tribunal is concerned, we entirely agree with the conclusion of the Tribunal that it cannot interfere with the proceedings at this stage, particularly when there are allegations on the part of the petitioner with regard to the truth and correctness of charges and which would undeniably require the enquiry proceedings to take place. The petitioner would have full opportunity before the Enquiry Officer to establish that the charges are false and / or mala fide, as alleged by him. He would have an opportunity to go through all the material which is sought to be relied upon against him and also to cross-examine the witnesses who are sought to be produced against him. He can also produce his own witnesses in defence.

4. In these circumstances, we find no infirmity in the Tribunal's order. The writ petition is dismissed. There shall be no order as to costs.