
(2019) 02 CAT CK 0105

In the Central Administrative Tribunal

Case No : Original Application No. 3175 Of 2014

Ghurey Lal S/o Sh. Jai mal Nath

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 15-02-2019

Acts Referred:

Citation : (2019) 02 CAT CK 0105

Hon'ble Judges : Nita Chowdhury, J; S.N. Terdal, J

Bench : Division Bench

Advocate : Ranjan Kumar, Gyanendra Singh

Final Decision : Dismissed

Judgement

Nita Chowdhury, J

1. Heard learned counsel for the parties.

2. By filing this OA, the applicant is seeking the following reliefs:-

"A) Call for the records of the employment of the applicants, details of the documents available with them on the basis of which punishment was imposed upon the applicant.

B) Direct the respondents to set-a-side the order 31.12.09 of punishment imposed upon the applicant and orders on the appeal dated 18.07.14.

C) Direct the respondents not pay all the benefits attached to him after setting a side the order of punishment and further direction to the effect that this punishment has no effect on post retirement benefits of the applicant.

D) Direct the respondents not to take into consideration this order of punishment on the promotion of the applicant till the final disposal of this case.

E) Grant any other relief or reliefs as this Hon'ble Tribunal may deem fit and proper in the interest of justice."

3. Brief facts of the case are that the applicant being Assistant Keeper with the National Zoological Park was placed under suspension vide order dated 7.3.2008. Thereafter a charge-sheet was issued against the applicant vide letter dated 2/3.6.2008, which contains the following articles of charge:-

"ARTICLE-I

While functioning as Assistant Keeper in the Reptile House Shri Ghurey Lal was assigned with a specific duty of feeding and upkeeping of animals kept in captivity. It is the duty of said Mr. Ghurey Lal to report to the higher authority if any animal is found sick and also to follow the instructions and directions given by the higher authorities.

Seven Indian Rock python had died on the Reptile House of the Zoo as mentioned below:

1. 29.01.2008
2. 11.02.2008
3. 21.02.2008
4. 23.02.2008
5. 27.02.2008
6. 29.02.2008
7. 03.03.2008

After the start of the winter season 14 nos. of heaters were provided in the Reptile House as per the practice of the previous years for the protection of animals from severe cold during winter season. It is the duty of Animal Keeper to ensure that heaters are put on as per instruction of higher authorities to maintain optimum suitable temperature in the enclosures. However, it has been found from the Beat Register of the Reptile House that heaters in Reptile House were switched off by Shri Ghurey Lal without obtaining instructions from the higher authorities. It disturbed the ambient temperature inside the cells and developed complications in the Pythons. The above action of Shri Ghurey Lal was one of the factors for the cause of the death of python.

The said action of Shri Ghurey Lal, Assistant Keeper led to the death of animals in the Reptile House. This action of the said Shri Ghurey Lal, Assistant Keeper amounts to negligence of his duty and Shri Ghurey Lal failed to maintain absolute integrity and devotion to duty which is a misconduct under Rule 3 (1) (i) and (ii) of the Central Civil Services (Conduct) Rules, 1964.

Article II

While functioning as Assistant Keeper in the Reptile House Shri Ghurey Lal was assigned with specific duty of feeding and upkeep of animals kept in captivity.

The private vehicles are not allowed inside the National Zoological Park. Moreover, any person who desire to see the animals or take photographs of animals are required to pay entry fee at the entrance of the gate of the National Zoological Park.

In the afternoon of 3.3.2008 at 12.40 P.M. a vehicle driven by one Shri Sharad was brought to the Reptile House of the Zoo where Shri Ghurey Lal, Assistant Keeper was on duty on that day. After some time Shri Ghurey Lal, Assistant Keeper accompanied Shri Sharad and took out the vehicle through the main gate. Thereafter, the vehicle was parked outside and Shri Ghurey Lal along with the said person Shri Sharad went to the Reptile House without purchasing any entry ticket for that person. The staff deputed at the gate of regulation of entry objected to the entry of Shri Sharad without entry ticket. Still Shri Ghurey Lal managed to procure entry of Shri Sharad in the Zoo. Shri Sharad was allowed to take photographs of the animals in the Reptile House by Shri Ghurey Lal. One of the sick pythons had died on that day.

The said action of Shri Ghurey Lal, Assistant Keeper of facilitating entry of Shri Sharad without paying entry fee of the Zoo and helping him to take photographers of the animals in the Reptile house is misuse of his official position. This action of the said Shri Ghurey Lal, Assistant Keeper amounts to misconduct and is in violation of the rule 3 (1) (iii) of the Central Civil Services (Conduct) Rule, 1965.

3.1 The Inquiry officer was also appointed to conduct the inquiry proceedings. However, on 29.12.2009, the applicant accepted the charges levelled against him and the disciplinary authority on acceptance of the charges by the applicant imposed the penalty of reduction by one stage in his present Pay Band of Rs.5200 to 20200 from Rs.7060 to Rs.6800 for a period of one year with effect from 1.1.2010 and the period of reduction of pay shall count for earning future increments and the future increment shall be drawn normally after one year, vide order dated 31.12.2009. Against the aforesaid order of the disciplinary authority, applicant preferred his appeal dated 9.3.2010 to the appellate authority in which besides other plea, the applicant has himself stated as under:-

"I respectfully submits that I was also forced to write/sign an apology letter under pressure and influence of the than director/disciplinary authority who was adamant to take disciplinary actions against me and other employees without conducting any enquiry on the basis of the aforesaid charge-sheet in the garb that I shall be pardoned."

The said appeal of the appellate authority had been considered by it and the same was rejected by a reasoned and speaking order dated 18.7.2014.

3.2 Feeling aggrieved by the aforesaid orders of the disciplinary and appellate authorities, the applicant has filed this OA seeking the reliefs as quoted above.

4. Counsel for the applicant besides reiterating the grounds as alleged in the OA

has mainly contended that once the enquiry proceedings was initiated against the applicant, there is no occasion for the disciplinary authority to discontinue the same and impose the penalty on the applicant on the basis of whims and fancies.

5. Counsel for the respondents rebutted the aforesaid contention of the applicant and submitted that it is admitted fact that the applicant has submitted a letter dated 29. 12.2009 accepting the charges levelled against him as is evident from his appeal dated 9.3.2010 but the plea as raised in the said appeal regarding pressure and influence of the disciplinary authority is not supported by any documentary evidence or in any other way. Since the applicant has accepted the charges levelled against him and sought for pardon, the disciplinary authority proceeded in the matter and imposed the minimum punishment upon the applicant whereas the gravity of charges levelled against the applicant deserves for imposition of punishment higher to what was imposed upon him. The representation and appeal preferred by the applicant were duly considered by the competent authorities and the orders passed by the disciplinary and appellate authorities are reasoned and speaking orders. There is no illegality in the action of the respondents and as such the present OA deserves to be dismissed by this Tribunal on this ground alone.

6. After hearing learned counsel for the parties and perusing the pleadings on record, this Court found that the applicant accepted the charges and sought for pardon during the pendency of the inquiry proceedings as is evident from the order of the disciplinary authority, appeal of the applicant and the order of the appellate authority. Further the plea of the applicant that apology letter was submitted by him under the pressure and influence of the disciplinary authority is not supported by any documentary evidence rather it can be said to be an afterthought plea. Once a delinquent tendered an apology then there is no necessity to continue the disciplinary proceedings any further. We have also perused the impugned orders and found that the same are reasoned and speaking orders. The quantum of punishment is not disproportionate and does not shock the conscience of the Court, as the Hon'ble Supreme Court in the case of B.C. Chaturvedi v. Union of India, (1995 (6) SCC 749) held that the Court will not interfere unless the punishment awarded was one which shocked the conscience of the court.

7. In the above facts and circumstances of this case, and for the aforesaid reasons, the present OA is dismissed. There shall be no order as to costs.