

(2013) 12 KAR CK 0532

In the Karnataka High Court

Case No : Writ Petition No. 49152 of 2013 (S-CAT)

H.C. Vijaykeethi

APPELLANT

Vs

Union of India, The Chief Executive Officer, Prasar Bharathi
Broadcasting Corporation of India and The Director General,
Prasar Bharathi Broadcasting Corporation of India

RESPONDENT

Date of Decision : 17-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0532

Hon'ble Judges : Mohan M. Shantanagoudar, J;K.N. Phaneendra, J

Bench : Division Bench

Advocate : A.R. Holla, for the Appellant; Prakash Shetty, for the Respondent

Final Decision : Disposed Off

Judgement

Mohan M. Shantanagoudar, J.—The petitioner has sought for modifying the order dated 2.8.2013 passed by the Central Administrative Tribunal (CAT) Bangalore Bench, Bangalore, in OA No. 139/2013 setting aside that portion of the order, which directs the Disciplinary Authority to conduct enquiry afresh within a period of two months. During the course of argument learned Advocate appearing for the petitioner takes a different ground and submits that pursuant to the impugned order passed by the CAT, petitioner is not reinstated to duties and consequently the petitioner is not paid salary as required under law.

2. The impugned order of CAT, Bangalore Bench, Bangalore, is not assailed by the Union of India. Thus the Union of India has accepted the said order of the CAT directing the Disciplinary Authority to get an enquiry done afresh in accordance with law.

3. The records reveal that petitioner has faced the departmental enquiry based on certain charges. The enquiry officer has concluded against the petitioner. The Disciplinary Authority based on the findings recorded by the enquiry officer and applying his mind independently has dismissed the petitioner from service. The

order of the Disciplinary Authority is confirmed by the Appellate Authority. However, CAT having found that the procedure followed during the course of enquiry was not in accordance with Rule 14 of Central Civil Services Classification Control and Appeal Rules (for short the CCS CCA Rules) set aside the order of the Disciplinary Authority and Appellate Authority and directed the Disciplinary Authority to pass the final order afresh in accordance with law, after conducting enquiry within a period of two months.

We do not find any ground to interfere with the impugned order, inasmuch as it is proper on the part of the CAT to direct to get the enquiry done afresh within two months and thereafter pass appropriate orders. Hence the impugned order of the CAT cannot be said to be erroneous.

4. However, the grievance of the petitioner is that he is not reinstated pursuant to the impugned order. The said submission is opposed by Sri Prakash Shetty, learned Advocate appearing for the respondents, drawing the attention of the Court to the provisions of sub-rule (4) of Rule 10 of Central Civil Services Classification Control and Appeal Rules, which reads thus:-

Rule 10(4): Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of a Court of Law and the Disciplinary Authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government servant shall be deemed to have been placed under suspension by the Appointing Authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders:

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.

5. From the aforementioned Rule, it is amply clear that where the penalty of dismissal is set aside in consequence of the decision of the Tribunal, with a direction to hold further enquiry against the Government servant, the Government servant shall be deemed to have been suspended from the date of original order of dismissal. Therefore, the petitioner is deemed to have been under suspension from the date of original order of dismissal passed by the Disciplinary Authority until further orders. Since the petitioner is deemed to be under suspension, he is entitled to subsistence allowance as per rules. With these observations the petition stands disposed of.