

(2018) 09 CAT CK 0003

In the Central Administrative Tribunal

Case No : Original Application No. 3645 Of 2011

Jagdish Chander

APPELLANT

Vs

Delhi Transport Corporation And Ors

RESPONDENT

Date of Decision : 28-09-2018

Acts Referred:

Citation : (2018) 09 CAT CK 0003

Hon'ble Judges : K.N.Shrivastava, Member (A), S.N.Terdal, J

Bench : Division Bench

Advocate : B.S.Mor, Chandra Shekhar, Karunesh Tandon

Final Decision : Disposed Of

Judgement

S.N.Terdal, Member, J

1. We have heard Mr.B.S.Mor, counsel for applicant and Mr Chandra Shekhar Goswami for Mr. Karunesh Tandon, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. Applicant has filed this OA, thereby praying for the following reliefs:

"(a) That the order of Punishing Authority dated 9-2-2010 (Annexure A-1 removing the applicant from service w.e.f. 10-2-2010 as well as order of the appellate authorities dated 11-1-2011 and 19-4-2011 Annexures A-2 and A-3 respectively as communicated through the punishing Authority may kindly be set aside being illegal, arbitrary, malafide, against the principles of natural justice and null and void in the interest of justice;

(b) That the applicant may be treated to have retired from service 24-11-2007 on the completion of qualifying service of more than 20 years with a relief pro-rata."

3. The relevant facts of the case are that a Show Cause Notice was issued to the applicant for remaining absent from duty for a period of 395 w.e.f. 24.11.2007

to 22.12.2008 unauthorizedly. On the basis of the above allegation a SCN was served on the applicant. Thereafter following the procedural rules and principles of natural justice a departmental enquiry was conducted and in the enquiry the applicant submitted that during the said period his wife was ill and he was having severe problems in his eyes and as such he could not attend the office and that considering his above stated problems his case may be decided. In view of his submissions made before the Inquiry Officer, the allegation made against the applicant was held to be proved by the inquiry officer. The relevant portion of the enquiry report is as follows:

"Therefore, the charge-sheeted employee has voluntarily admitted the allegations mentioned in the charge-sheet without any pressure during the course of enquiry, and he is found guilty of the same."

On the basis of the said inquiry report by the impugned order dated 9.02.2010, the applicant was removed from service w.e.f. 10.02.2009. The appeals filed by the applicant were rejected by the orders dated 11.1.2011 and 19.04.2011.

4. The counsel for the applicant strenuously submitted that the applicant was appointed in Jan 1984 and he had served for more than 24 years without any blemish and because of illness of his wife and because of severe problem in his eyes he remained absent. In the departmental enquiry also the applicant has submitted the same. The counsel for the applicant strenuously submitted that in view of the facts and circumstances of the case, the penalty imposed is shockingly disproportionate. We have perused the SCN, inquiry report and the impugned orders, in our opinion the penalty order of removal is indeed shockingly disproportionate in view of the allegation leveled against the applicant. We accordingly, set aside the impugned order dated 9.02.2010 of the disciplinary authority and orders dated 11.01.2011 and 19.04.2011 of the appellate authority, and we direct the respondents to treat the applicant as compulsorily retired from service w.e.f 10.02.2009 and pay him consequential retiral benefits. We further direct that the consequential order regarding retiral benefits be passed within three months from the date of receipt of this order. OA is disposed of accordingly. No orders as to costs.