
(2020) 10 CAT CK 0095

In the Central Administrative Tribunal

Case No : Original Application No. 1495 Of 2020

Jagdish Prasad

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 08-10-2020

Acts Referred:

Central Civil Services (Conduct) Rules, 1964 — Rule 3(1)(i)(ii)(iii)

Citation : (2020) 10 CAT CK 0095

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

Bench : Division Bench

Advocate : Vaibhav Pratap Singh, Subhash Gosain

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicant was appointed as Nursing Officer in Safdarjung Hospital, the 2nd respondent herein. A charge memo was issued on 11.01.2018 alleging that he remained unauthorizedly absent for quite a long time, just by applying for three days' leave, in September, 2017. Second charge was that he left the country on number of occasions between 2016 and 2017, without obtaining the permission from the competent authority. This O.A. is filed challenging the charge memo dated 11.01.2018. The applicant contends that proceedings commenced in his absence and that the charge memo itself is defective, in as much as it does not contain the list of witnesses. Certain developments, that have taken place during the course of proceedings, are also mentioned. Reliance is also placed upon certain judgments of the Hon'ble High Court of Delhi.

2. We heard Mr. Vaibhav Pratap Singh, learned counsel for applicant and Mr. Subhash Gosain, learned counsel for respondents, at the stage of admission, through video conferencing.

3. The challenge in this OA is to a charge memo dated 11.01.2018. The two articles of charge framed against the applicant read are as under :

ARTICLE-I

That, it has been informed by Admn.III-In) Section that Sh.Jagdish Prasad, Nursing Officer, Rank No.6045, went to his home town Sikhar, Rajasthan for 03 days E.L. w.e.f. 04/09/2017 to 06/09/2017. In continuation, he sent another application for 09 days Medical Leave w.e.f. 07/09/2017 to 15/09/2017 mentioning address during leave period Sikhar, Rajasthan. But he submitted Private M/C with complaint of fever & diahearia, which was issued by the Gynecologist of Mehta Nursing Home (Delhi). Which his leave address in these days at his Home Town i.e. Sikhar, Rajasthan. Again in continuation, he submitted M.Leave of 35 days due to back pain. He joined his duty on 21/10/2017 along with M/C & F/C from Dr.R.K.Beniwal, Specialist, deptt. of Orthopaedics, S.J.Hospital. Thereafter, he has absenting since 22/10/2017 without any information. In this regard, several memos' & warning were issued to him but he neither replied nor joined his duty to till date. It seems that he is not sincere to his duties and no regards of Govt. Rules.

Thus, by remaining the absent from duty, Sh.Jagdish Prasad, Nursing Officer, Rank No.6045, has failed to maintain devotion to duty and has acted in a manner which is unbecoming for a Govt. Servant and has violated the Rule 3(1)(i)(ii)(iii) of CCS (Conduct) Rules, 1964.

ARTICLE-II

That, it has been informed by Admn. III-(N) Section that Sh.Jagdish Prasad, Nursing Officer, Rank No.6045, of this hospital frequently visited abroad (outside India) without getting prior permission/informing to the competent authority during his Medical Leave & Earned Leave period in 2015, 2016 & 2017 which was found correct and verified by the FRRO (Foreigners Regional Registration Office). It seems he is not sincere to his duties and no regards of Govt. Rules.

Thus, by remaining the absent from duty, Sh.Jagdish Prasad, Nursing Officer, Rank No.6045 , has failed to maintain devotion to duty and has acted in a manner which is unbecoming for a Govt. Servant and has violated the Rules 3(1)(i)(ii)(iii) of CCS (Conduct) Rules, 1964.

4. In the statement of imputation, the particulars of absence and the details of the foreign trips made by the applicant, numbering about six, are furnished. The applicant did not submit his explanation. The Disciplinary Authority appointed the Inquiry Officer. The applicant joined the enquiry at a later stage, i.e., on 12.12.2018.

5. The occasion for the Tribunal to interfere with a charge memo would arise only when it is issued by an authority, not vested with the power. A ground, strongly urged by the applicant is that the charge memo does not contain list of witnesses and accordingly, is liable to be set aside. Reliance is placed upon certain Judgements, by the applicant. In this regard it needs to be observed that the necessity to examine the witnesses in the disciplinary proceedings would depend

upon the nature of allegations contained in the charges. For example if the charge is about the misconduct of the employee in passing a particular order which is a matter of record, the necessity to examine the witnesses may not arise. In the instant case, two witnesses are named in Annexure-4 to the charge memo. They are

- a) the dealing assistant in the administrative section and
- b) Sister incharge of ICCU.

Therefore the very plea is not available to the applicant.

6. Though it is pleaded that the enquiry officer is not following the prescribed procedure, we do not find any such specific instances. The reason for delay in service of the charge memo, in a way is contained in the very charge itself. The applicant was not available for months together, either on account of his going to his native place or to foreign countries.

7. Further, the Inquiry Officer has since submitted his report and a copy thereof is made available to the applicant the question of interfering the proceedings at this stage does not arise. We, However, we grant one week time from today, to offer his remarks to the report of the enquiry officer.

8. We do not find any merit in this OA and the same is dismissed accordingly. There shall be no order as to costs.