
(2020) 07 CAT CK 0019

In the Central Administrative Tribunal

Case No : Original Application No. 100, 902 Of 2020

Lalit Gupta

APPELLANT

Vs

North Delhi Municipal Corporation

RESPONDENT

Date of Decision : 16-07-2020

Acts Referred:

Citation : (2020) 07 CAT CK 0019

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

Bench : Division Bench

Advocate : Shashank S Mangal, R.V.Sinha, Amit Sinha

Final Decision : Dismissed

Judgement

L Narasimha Reddy, J

1. The applicant is working as Upper Division Clerk in the respondent Corporation. It appears that a criminal case was registered against him alleging acts of corruption. The case ended in acquittal.

2. On 22.08.2019 he made a request for permitting him to retire on voluntary basis. The respondents rejected the same through an order dated 12.12.2019. Thereafter the applicant submitted representation on 08.01.2020 claiming the benefits under the Persons with Disabilities Act. His grievance is that no steps have been taken thereon and he filed this OA with a prayer to quash the departmental proceedings, if any, pending against him, to grant the arrears of salary and increments and promotion to him, and to direct the respondents to extend the benefits under the office memorandum dated 19.05.2015 with reference to the implementation of the provisions of Persons with Disabilities Act.

3. Initially the applicant filed Writ Petition No.3055/2020 before the Hon'ble High Court of Delhi claiming similar relief. The Hon'ble High Court was pleased to dispose of the same on 06.05.2020 leaving it open to the applicant to file OA and observing that the Tribunal shall hear the OA on urgent basis through Video

Conference. The case was heard at some length on 13.05.2020 and thereafter on 10.06.2020.

4. Today we heard Sri Shashank S Mangal, learned counsel for the applicant and Sri R.V.Sinha, learned standing counsel for the respondents at length and perused the record.

5. The prayer in the OA reads as under :

"(a) To quash the Departmental Enquiry, if any, pending against the applicant pertaining to SIO (P) Case No.2398/SIO(P)/Vig/ACB/2012.

(b) To grant to the applicant all the salary arrears, increments, promotions due but not considered.

(c) To direct the respondent to expeditiously consider the claim of the petitioner under the Office Memorandum (OM) F.No.25012/1/2015-Estt (A-IV), issued by Government of India, Ministry of Personnel and Training, Establishment (A-IV) Desk dated 19.05.2015 ('OM of 2015'), and accommodate him as contemplated, if the consideration is decided in his favour."

6. The first limb of the prayer is about quashing of the enquiry proceedings if any, against him. Hardly one finds any prayers of this nature. When the applicant himself is not clear and sure about the existence of the departmental proceedings, the question of any relief being granted with reference to that does not arise. Even otherwise we found from the respondents that no disciplinary proceedings were initiated against the applicant.

7. The prayer for payment of arrears of salary, increments and promotion is as vague as it could be. Nowhere in the OA, the applicant has stated that he was not paid salary for any period during which he worked. On other aspects such as increments and promotion he has to be clear about the dates on which they became due and make a representation in that behalf.

8. So far as the 3rd limb of the prayer is concerned, the applicant pleads that he suffered from disability and accordingly he is entitled to be extended the benefits under the Act and as well as the OM dated 19.05.2015.

9. In this behalf it needs to be noted that in his application dated 22.08.2019 the applicant did not mention anywhere that he suffered from any disability. It is a different matter that he stated that he is taking medicines and he is not able to perform the duty. The respondents have examined the application and rejected the request through an order dated 12.12.2019. The order reads as under :

"It is informed that your application regarding grant of VRS on Medical Ground dated 22.08.2019 was received to this office vide no. 1013 dated 22.08.2019 & the same has been sent to competent authority for consideration and approval. Now the proposal has been received from Vigilance Deptt./North DMC through DC/CL Zone with remarks i.e. your VRS application cannot be accepted and processed.

In view of the above you are directed to join your duty at once after receiving this letter."

10. The applicant did not feel the necessity of challenging the order referred to above. In other words he was reconciled to that situation. In this OA also no grievance is made out as regards the rejection of the request for voluntary retirement.

11. On 08.01.2020, the applicant made a representation referring to the acquittal in the criminal case and claiming the benefit of promotion, etc. Here again he did not mention that he suffered from any disability, on the other hand he placed the obligation on the respondents to inform him about the benefits available under the Act.

12. The Act provides for certain benefits in favour of the persons who suffered from the disability mentioned therein. A medical problem or a small ailment, by itself does not result in conferment of benefit on the employee. As and when an employee complains of any ailment or disability, the concerned department has to examine and if it is established that the employee suffers from any schedule disability the corresponding benefits needs to be confirmed. In any event, the self assessment does not lead to be the extension of the benefit. Therefore, we do not find any strength in the plea of the applicant.

13. If, in fact, he is suffering from any disability, he has to mention the same and make a representation to the respondents, who in turn shall get the applicant examined in a Government Hospital in accordance with the prescribed procedure. Depending on the result of such examination, the benefits if any, there to be granted.

14. We do not find any merit in this OA and accordingly dismissed. However, we leave it open to the applicant to make a representation, pointing out the disability, if any, suffered by him, and on receipt of such representation, the respondents shall process the same in accordance with law.

15. There shall be no order as to costs.