

(2019) 04 CAT CK 0042

In the Central Administrative Tribunal

Case No : Original Application No. 1257 Of 2019

Manish Kumar Goel

APPELLANT

Vs

Lt. Governor

RESPONDENT

Date of Decision : 24-04-2019

Acts Referred:

Prevention Of Corruption Act, 1988 — Section 7, 13(2), 13(1)(d)
Delhi Municipal Corporation Act, 1957 — Section 95(2)(a)
Central Civil Services (Classification, Control & Appeal) Rules, 1965 — Rule 19
Delhi Municipal Corporation Service (Control & Appeal) Regulations, 1959 —
Regulation 9, 9(1)

Citation : (2019) 04 CAT CK 0042

Hon'ble Judges : L. Narasimha Reddy, J; Mohd. Jamshed, J

Bench : Division Bench

Advocate : K. S. Negi

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicant was working as Assistant Engineer in South Delhi Municipal Corporation (SDMC). Criminal Proceedings were instituted against him alleging that he has accepted illegal gratification in the course of discharging his duties. The Court of ASJ/Special Judge, CBI-02, New Delhi District, Patiala House Courts, New Delhi, convicted him through judgment dated 09.08.2017 for the offence punishable under Sections 7 & 13 (2) read with Section 13 (1) (d) of Prevention of Corruption Act. In the light of the same, the Disciplinary Authority passed an order dated 05.06.2018 dismissing the applicant from service in exercise of the powers conferred under Regulation 9 (1) of the Delhi Municipal Corporation Service (Control & Appeal) Regulations 1959 read with Section 95 (2) (a) of the Delhi Municipal Corporation Act, 1957.

2. The applicant preferred an Appeal before the Lt. Governor of Delhi challenging the Office Order dated 05.06.2018. There was delay of 92 days in preferring the

appeal. Through order dated 15.01.2019, the Lt. Governor refused to condone the delay and thereby did not entertain the appeal. This OA is filed challenging the order dated 15.01.2019.

3. We heard Shri K. S. Negi, learned counsel for the applicant in detail at the stage of admission itself.

4. It is no doubt true that the delay was only 92 days and in all probability, if reasonable explanation was put forth, it could have been condoned. The fact, however, remains that the order of dismissal was passed against the applicant under Regulation 9, which is akin to Rule 19 of CCS (CCA) Rules, sans the provision added thereto. As long as the conviction, that too in relation to an offence punishable under the Prevention of Corruption Act, remains, the question of any Court or Authority interfering with the order of punishment does not arise. It is a different matter if the applicant is acquitted by the High Court in the Appeal, which is now pending.

5. We, therefore, dismiss the OA, leaving it open to the applicant to pursue the remedies in case the Appeal preferred by him against the order of conviction is allowed. In such an event, the order dated 15.01.2019 would not come in the way. There shall be no order as to costs.