
(2019) 07 CAT CK 0069

In the Central Administrative Tribunal

Case No : Original Application No. 2186 Of 2019

Neelam Raghuvanshi

APPELLANT

Vs

Chief Secretary And Ors

RESPONDENT

Date of Decision : 26-07-2019

Acts Referred:

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

Citation : (2019) 07 CAT CK 0069

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

Bench : Division Bench

Advocate : Anmol Pandita, Esha Mazumdar

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicant is working as a Trained Graduate Teacher (TGT) in the Education Department of Government of National Capital Territory of Delhi. She was issued a charge memo dated 08.05.2012 alleging that she remained absent from 11.03.2010 to 15.01.2012 unauthorisedly. Another allegation was that though she was entrusted with the duty of Enumerator in Census, she neither responded to it nor performed the duties. The applicant submitted her explanation stating that she had to leave for Dubai to look after her husband and though leave was applied, the same was not sanctioned. Not satisfied with the explanation, the disciplinary authority appointed the Inquiry Officer. Through report dated 14.09.2017, the Inquiry Officer held the Articles of Charge as proved. It is also observed that the applicant did not cooperate in the inquiry. Taking note of the report of the Inquiry Officer, the Disciplinary Authority passed an order dated 05.03.2018 imposing the punishment of reduction of pay scale of the applicant by two stages for a period of two years, and directing that the reduction shall have the effect of postponing the future increments.

2. This OA is filed challenging the charge memo dated 08.05.2012, the Inquiry

Report dated 14.09.2017 and the punishment order dated 05.03.2018.

3. The applicant contends that a serious error was committed as to the reckoning of the period of absence. According to her, she was sanctioned leave up to 31.03.2010 and though she went to join duty in June, 2011, she was not permitted, and she had to remain idle for six months; and that these two spells are treated as unauthorised absence. Allegations are also made that the inquiry was not conducted in a proper manner and the punishment is also said to be disproportionate. The appeal preferred by the applicant was rejected on 12.02.2019.

4. We heard Shri Anmol Pandita, learned counsel for the applicant and Ms. Esha Mazumdar, learned counsel for the respondents at the stage of admission.

5. The articles of charge contained in the charge memo read as under:-

"Article-I That Smt. Neelam Raghuvanshi Drawing Teacher while functioning during her posting in GGSS Blk 27 Trilokpuri absented from her duty unauthorisedly w.e.f. 11.3.2010. That said Smt. Neelam Raghuvanshi absented until her joining on 16.1.12.

This by her said absence for the period 11.3.10 to 15.1.12, said Smt. Raghuvanshi has shown non devotion to her duty which tantamount violation of Rule 3 (1) (i) & (iii) of CCS (Conduct) Rules, 1964 rendering her unbecoming of Govt. service.

Article-II That said Smt. Neelam Raghuvanshi Drawing Teacher during her poisting in GBSS Blk 27 Trilokpuri was directed to perform duty in census as enumerator vide letter dated 19.4.11 by the HOS of the School but she neither responded nor perform the duty of enumerator in census.

Thus by her above said conduct said Smt. Neelam Raghuvanshi has violated Rule 3 (1) (i) & (iii) of CCS (Conduct) Rules, 1964 thereby she rendered herself unbecoming of a Govt. servant."

6. The applicant did not dispute that she went to Dubai even before leave was sanctioned and without there being a no objection certificate for that purpose. Assuming that she was granted earned leave up to 31.03.2010, that would count only for 20 days, the remaining period of absence till 16.01.2012 is not covered by any leave whatever.

7. The applicant is a teacher in government school where the conditions of service are fairly good. It is only the children of poor and lower middle class who join the government schools now-a-days. The absence of the applicant for such a long period would have its own impact. It is not as if, that the applicant had to urgently leave the country on account of a grave situation. The purpose mentioned by her in the letter dated 20.07.2007 seeking leave of two years reads as under:-

"To

The Principle

G.G.S. School

Block 27, Trilok Puri,

Delhi 91.

19 July 2009

Sub : Leave application for abroad.

Dear Madam,

I, the undersigned, is working as a drawing teacher (TGT) in East zone since 1997.

Recently, my husband has joined a US based firm at Dubai, UAE and, he has been transferred on some important project to Abu Dhabi. The copy of employment letter and residence visa issued by UAE is enclosed herewith for your ready reference.

Since he is a diabetic patient he has been prescribed daily dose of insulin by our family physician. At present he is staying alone in such situation.

Due to above mentioned reason I would like to shift to Abu Dhabi to look after my husband. Therefore, under the provision of service rules I request you to kindly grant me a long leave of Two years at the earliest. I understand that this leave shall be unpaid and there may be a break in my service as per applicable policies.

I assure you that I will return to my duty after availing the leave or even before as per the prevailing circumstances at that time.

Thanking you in anticipation.

Yours truly

(Neelam Raghuvanshi)

TGT Emp-ID-19970896"

The applicant is so attentive that she did not distinguish between "Principal" and "Principle".

8. The reason mentioned by her is that she intends to leave to look after her husband who joined an important project at a US based firm at Dubai. The duties to the school did not matter for her.

9. It is strongly urged that the inquiry was not conducted properly. If at all anything, it is the applicant who created hurdles at every stage in the inquiry. A perusal of the Inquiry Report discloses that the applicant has virtually taken the Inquiry Officer for a ride and she did not cooperate on many occasions. On the

other hand, she went on making frivolous and false allegations.

10. When the applicant remained absent for a period exceeding one year unauthorizedly, punishment of stoppage of two increments can, by no means, be said to be on the higher side or without basis. We do not find any legal or factual defect in the charge memo or the report of the Inquiry Officer.

11. We do not find any merit in the OA. It is accordingly dismissed.