

(2020) 07 CAT CK 0041

In the Central Administrative Tribunal

Case No : Original Application. No. 100, 896 Of 2020

P.N. Ranjit Kumar APPELLANT @Hash Union Of India & Others

Date of Decision : 29-07-2020

Acts Referred:

Citation : (2020) 07 CAT CK 0041

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

Bench : Division Bench

Advocate : Achintya Dvivedi, Saurabh Anand Prakash, Gyanendra Singh

Final Decision : Disposed Of

Judgement

L Narasimha Reddy, J

1. The applicant joined the service of Cabinet Secretariat as Deputy Secretary on 01.11.2004. Thereafter he held various positions in the organization. He was issued a show cause notice dated 10.08.2017 requiring him to explain as to why disciplinary proceedings be not initiated against him, for the alleged lapses pointed out therein. The applicant submitted his reply on 29.11.2017. Not satisfied with that, the DA issued a charge memorandum on 06.01.2020. Several articles of charge were mentioned therein. 15 documents were referred to.

2. The applicant states that he made a representation on 28.01.2020 and 07.02.2020 with a request to furnish the documents mentioned in charge memo, as well as certain other documents. It is stated that the documents were not furnished. Through an order dated 08.07.2020 the applicant was informed that one Sri Ravi Sinha, Additional Secretary of R&AC is appointed as inquiry officer. In this OA the applicant claims the relief in the form of direction to DA to supply the documents mentioned by him in his representation dated 28.01.2020 and 07.02.2020 and all other documents, based on which the observations and allegations in the charge sheet are made. He has also prayed for a direction to the respondents to supply the documents relating to consultations held with statutory bodies like CVC and UPSC.

3. The applicant contends that it would not be possible for him to submit suitable

explanation, unless the relevant documents are supplied to him and there was no justification for the DA in not supplying the same.

4. On behalf of all the respondents, a detailed reply is filed. It is stated that the applicant held several sensitive positions in the organization and the charges against him are grave in nature. It is also stated that in the show cause notice itself, the nature of deviations alleged to him are pointed out and he submitted explanation on 29.11.2017 only after going through the relevant records. It is stated that in the documents mentioned in the charge memo dated 06.01.2020 are highly sensitive in nature and it would not be possible to furnish copies thereof. It is also stated that the applicant would be permitted to peruse those documents during the course of inquiry.

5. We heard Mr.Achintya Dvivedi Saurabh Anand Prakash, learned counsel for the applicant and Mr.Gyanendra Singh, learned standing counsel for the respondents in detail.

6. The applicant is associated with the organizations like R&AW and ARC (Aviation Research Centre). In the show cause notice dated 10.08.2017 a detailed account of the acts and omissions on his part is furnished. On a request made by the applicant, he was permitted to go through the relevant files. It is only after going through the files, that the applicant submitted his explanation on 29.11.2017. Obviously, not satisfied with the explanation, the DA issued a charge memorandum on 06.01.2020. A perusal of the charge memo on the one hand and the show cause notice dated 10.08.2017 on the other hand would disclose that the subject matter in both of them is by and large the same. The only difference is that in the charge memo, the alleged deviations were put in a condensed form, whereas in the show cause notice, there was a bit of elaboration.

7. It is true that in the charge memo the respondents have referred to 15 documents. It is also true that in the ordinary course, the DA is under obligation to furnish the relied upon documents to the delinquent employee. However, if the proceedings are against an official in the sensitive organizations like R&AW and ARC, the ordinary practice cannot be insisted upon. Several sensitive issues touching on the security of the Country are involved. The furnishing of documents of that nature is bound to lead to one, of compromise with the security of the State. Obviously for this reason, the respondents did not accede the reply of the applicant.

8. In all fairness to the applicant, the respondents have offered to permit him to go through the documents in the course of inquiry. If, The applicant suffered any handicap in submitting his explanation to the charge memo on account of non-supply of documents, he can overcome the same after he goes to them, during the course of inquiry. He can even be permitted to supplement his defence, in the form of memo or other form of submissions, once he goes through the relied upon documents. This much departure from the usual course is required, having

regard to the security of the State and sensitivity involved.

9. We, therefore, dispose of the OA rejecting the prayer of the applicant, but directing that the respondents shall be under obligation to permit the applicant to go through the documents mentioned in the charge memo, during the course of inquiry. It shall be open to the applicant to supplement his defence in the form of a memo or otherwise, in the course of inquiry itself, after going through the documents. The disciplinary proceedings shall be completed as early as possible and the applicant shall extend his cooperation for that.

10. There shall be no order as to costs.