
(2021) 03 CAT CK 0030

In the Central Administrative Tribunal

Case No : Original Application No. 4055 Of 2016

Pradeep Kumar

APPELLANT

Vs

Govt. Of NCT Of Delhi & Others

RESPONDENT

Date of Decision : 01-03-2021

Acts Referred:

Central Civil Services (Classification, Control And Appeal) Rules, 1965 — Rule 14
Central Civil Services (Conduct) Rules, 1964 — Rule 20
Central Excise Rules, 1944 — Rule 173Q

Citation : (2021) 03 CAT CK 0030

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

Bench : Division Bench

Advocate : Ajesh Luthra, Ankur Chibbar

Final Decision : Dismissed

Judgement

L.Narasimha Reddy, J

1. The applicant joined the service of the Government of National Capital Territory of Delhi in the year 1996, in the subordinate service. He earned the promotions over the period and as of now, he is in the DANICS, on adhoc basis. The applicant was served with a charge memo dated 27.05.2016. It was alleged that while working as Consolidation Officer between 1998-2002, he allotted two residential plots measuring 2100 sq.yards each, in village Pooth Khurd, in favour of a person who was not entitled for the same. The second allegation was that the applicant permitted the sale/purchase of the land in village Khurd during the course of consolidation proceedings. The third allegation was that the applicant allotted a residential plot measuring 02 Bighas 02 Biswas to a person who was already allotted a plot.

2. The applicant submitted his reply on 22.08.2016 and not satisfied with that, the Disciplinary Authority appointed an Inquiry Officer on 15.11.2016. The plea of the applicant is that the very inquiry is in to certain incidents which took place almost 1 ½ decades ago and disciplinary proceedings as regards stale matters

cannot be permitted. Stating that this Tribunal interfered in similar situation in OA.1307/2015, the applicant filed this OA.

3. The respondents filed a detailed reply. It is stated that the charges framed against the applicant are serious in nature and that the disciplinary proceedings were initiated, as soon as the relevant facts are known. It is stated that the inquiry is half-way through and the various grounds raised by the applicant are untenable in law.

4. We heard Shri Ajesh Luthra, learned counsel for the applicant and Shri Ankur Chibbar, learned counsel for the respondents.

5. This OA is filed challenging the charge memo dated 27.05.2016. The charges framed against the applicant read as under :-

"Memorandum

The undersigned proposes to hold an inquiry against Sh. Pradeep Kumar, Ad-hoc DANICS under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputation of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of imputation of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV).

2. Sh. Pradeep Kumar, Ad-hoc DANICS is directed to submit within 10 days of the receipt of this memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that the inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Sh. Pradeep Kumar, Ad-hoc DANICS is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS (CCA) Rules, 1965, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex-parte.

5. Attention of Sh. Pradeep Kumar, Ad-hoc DANICS is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Sh. Pradeep Kumar, Ad-hoc DANICS, is

aware of such a representation and that has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules, 1964.

6. The receipt of the Memorandum may be acknowledged."

6. If what is stated in the articles of Charge is true, it constitutes a serious misconduct. As soon as he received the charge memo, the applicant submitted his explanation and the Disciplinary Authority appointed the Inquiry Officer also. The OA is filed at a time, when the inquiry was in progress.

7. It is true that the articles of charge framed against the applicant are referable to his functioning as Consolidation Officer between 1998-2002 and that the charge memo is issued about 1 ½ decades thereafter. Instances are not lacking where the Courts or Tribunals interfere with the disciplinary proceedings initiated into stale matters. Much however, would depend upon the gravity of the charge. In many cases, particularly, those relating to property issues, there would not be any scope to know the deviations, soon after they are committed. The reason is that the person who enjoys the benefit would try his level best to cover up the things unnoticed and make them remain, and the officer, who worked in that behalf, would maintain stoic silence. In the meanwhile, the public interest will suffer. Obviously for this reason, the Courts take the view that wherever serious acts of fraud or deviations, effecting public interest are noticed, limitation or latches hardly matter.

8. The applicant contends that the various acts attributed to him in the articles of charge were done by him in the course of discharging the quasi judicial powers. Reliance is placed upon the judgement of the Hon'ble Supreme Court in *Zunjarro Bhikaji Nagarkar Vs. Union of India* 1999 (7) SCC 409. That was a case in which the official was a Collector of Central Excise and the allegation was that he favoured an assessee, by not imposing penalty under Rule 173 Q of Central Excise Rules, 1944 and that he passed an order in original, dated 02.03.1995. He was not successful before the Central Administrative Tribunal and Hon'ble High Court, when he challenged the disciplinary proceedings. The Hon'ble Supreme Court took the view that the official therein has exercised merely judicial powers and the existence of the menial error does not constitute an act of misconduct.

9. In the instant case, the functions of a Consolidation Officer are substantially different. He was required to be careful in dealing with the Government property. The truth or otherwise of the allegation made against him needs to be examined in the disciplinary proceedings, initiated against him. It is too early for this Tribunal to come to any conclusion. The nature of functions assigned to the office of Consolidation Officer cannot be equated to a Collector of Customs whose orders can be challenged by the Revenue before a superior forum. Such a facility does not exist as regards consolidation of lands.

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