

(1998) 04 DEL CK 0005
In the Delhi High Court
Case No : C.W. No. 1235 of 1987

Prithvi Singh Kem

APPELLANT

Vs

The Hon"ble Chief Justice

RESPONDENT

Date of Decision : 21-04-1998

Acts Referred:

Citation : (1998) 04 DEL CK 0005

Hon'ble Judges : K. Ramamoorthy, J

Bench : Single Bench

Advocate : Ms. Barkha Babbar, for the Respondent

Judgement

K. Ramamoorthy, J.

1. The petitioner has challenged the order of dismissal passed by the Chief Justice. The main grievance of the petitioner is that the proceedings initiated by this court under Central Civil Services (Classification, Control and Appeal) Rules, 1965 is without jurisdiction in view of Rule 11 of Delhi High Court Establishment (Appointment and Conditions of Service) Rules, 1972. The petitioner appearing in person covered a large ground by submitting that he being a scheduled caste candidate requested that there would be a reservation for the Scheduled Caste employees and though that was considered by the High Court, he was not promoted and he was asked to undergo a test while some other employees similarly situated were promoted without being put to any test. According to him, all the officers concerned had acted against him and tried to harass him. In the first instance, the punishment was imposed and he was restored back to service revoking his suspension. But he did not join duty and insisted that his demand should be made before he was asked to join duty. But according to the petitioner, he was fully justified on the facts and circumstances in pressing for his demand. At one point of time Hon"ble the Chief Justice gave him an opportunity to appear before him to ascertain the grievance of the petitioner but the petitioner refused to appear before Hon"ble the Chief Justice.

2. As the petitioner used unparliamentary language and did not obey the directions issued by the superior officers, chargesheet was issued and enquiry was held.

3. Ultimately on 27.03.1987 the Chief Justice of the High Court court passed the following order:

HIGH COURT OF DELHI: NEW DELHI

NO.75

DATED: 27.3.1987

O R D E R

Whereas a departmental inquiry under Rule 14 of Central Civil Services (Classification, Control and Appeal) rules, 1965 was conducted against Shri P.S. Kem, Permanent Restorer/temporary assistant of Delhi High Court to inquiry into the charges served upon him vide Memorandum No. 2910/Estt. Dated 22.02.1985. And whereas, on careful consideration of the report/findings of the Inquiring Authority on the Articles of charge and evidence adduced during the inquiry, Hon"ble the Chief Justice came to the conclusion that Shri P.S. Kem should be dismissed from service and accordingly he was given an opportunity of making representation on the proposed penalty of dismissal from service within 15 days from the date of receipt of notice which was served upon him on 23.1.1987;

And whereas at his request the time for filing the representation, if any, on the proposed penalty was extended up to 6.3.1987 but instead of giving any representation against the proposed penalty even within the extended time, he chose to make frivolous application dated 6.3.1987 for further time which has been declined.

Now, Therefore, Hon"ble the Chief Justice vide order dated 19.3.1987 has been pleased to order that the said Shri P.S. Kem being not a fit and proper person to be retained in government service be awarded the penalty of dismissal from service of this Court.

Accordingly the said Shri Kem stands dismissed from service with effect from 19.3.1987.

By order

Sd/-

Registrar

4. The petitioner had submitted a synopsis of dates and also points in support of his case. The petitioner submitted that Rule 11 of the Delhi High Court Establishment (Appointment and Conditions of Service) Rules, 1972 is very clear and the Central Civil Services (Classification, Control and Appeal) Rules, 1965

cannot follow on the basis of the enquiry. Rule 11 of the Delhi High Court Establishment (Appointment and Conditions of Service) Rules, 1972 reads as under:

All members of the establishment of the High Court shall be governed by the Central Government Servants conduct Rules in force for the time being except that the Registrar and the Deputy registrar belonging to Higher Judicial Service and Delhi Judicial Service respectively, shall be governed by the rules applicable to the said Services.

5. The learned counsel for the first respondent submitted that Hon'ble the Chief Justice, is a competent authority, to initiate action against the employees of the High Court by virtue of Article 229 of the Constitution of India. The learned counsel for the first respondent relied upon the judgment of the Supreme Court in Chief Justice of Andhra Pradesh and Others Vs. L.V.A. Dixitulu and Others, , High Court of Judicature for Rajasthan Vs. Ramesh Chand Paliwal and Another, and Director General of Ordnance Services and others Vs. P.N. Malhotra, . Rule 11 does not say that the Central Civil Services (Classification, Control and Appeal) Rules, 1965 does not apply to the employees of the High Court. Whatever be the provisions in law, under Article 229 of the Constitution of India Hon'ble the Chief Justice is competent to initiate disciplinary action against the employees of the High Court. The interpretation put on the rule by the petitioner cannot at all be accepted.

6. This court had already restricted the scope of the writ petition to only proceedings relating to charge and ultimate order passed by this court and Therefore, the case of the petitioner that he was harassed cannot at all be gone into.

7. On a perusal of the records, leading to the disciplinary proceedings, I have no hesitation in coming to the conclusion that this court had followed the principle of natural justice and the punishment imposed on the petitioner was fully justified and the petitioner has not made out any case for interference.

8. The writ petition stands dismissed. There shall be no order as to costs.