
(2020) 08 CAT CK 0011

In the Central Administrative Tribunal

Case No : Original Application No. 100, 933 Of 2020

Prof. V. P. Singh

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 07-08-2020

Acts Referred:

Central Civil Services (Classification, Control & Appeal) Rules, 1965 — Rule 14

Citation : (2020) 08 CAT CK 0011

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

Bench : Division Bench

Advocate : A. K. Behera, Manish Kumar

Final Decision : Dismissed

Judgement

L Narasimha Reddy, J

1. The applicant is working as Professor in Statistics, Department of Elementary Education in the National Council of Educational Research and Training, (for short NCERT). A preliminary inquiry was conducted as regards the functioning of the applicant and discharge of his duties. A report was emerged on 16.10.2018. On the basis of that, a show cause notice was issued to the applicant on 11.01.2019 and he in turn submitted a reply on 25.01.2019. A second show cause notice was issued on 22.02.2019 and that was replied on 09.03.2019.

2. The applicant was issued a charge memo dated 16.07.2019 under Rule-14 of the CCS (CCA) Rules with certain Articles of Charge. The applicant submitted his explanation on 22.08.2019. Thereafter, the Disciplinary Authority appointed the Inquiry Officer and Presenting Officer on 21.11.2019. Preliminary hearing was held on 17.12.2019 and first regular hearing was held on 01.01.2020. The inquiry proceeded further. The applicant raised objections at various stages and one of it is as regard to the very competence of the Director of NCERT to act as Disciplinary Authority. The applicant was given replies at various stages. It is also stated that the appeal was preferred to the President of NCERT on certain

aspects. At that stage the applicant filed this OA challenging the very charge memo dated 16.07.2019.

3. The applicant contends that the Director was not competent to issue the charge memo, much less to appoint the Inquiry Officer and Presenting Officer. It is also stated that the prescribed procedure was violated at various stages and objections raised by him were not considered at all.

4. On behalf of NCERT a short reply has been filed. It is stated that the applicant has resorted to various acts and omissions and after conducting a preliminary inquiry and considering the explanation submitted by the applicant, the disciplinary proceedings were initiated. It is stated that the Director is conferred with the power to act as Disciplinary Authority and such a step was upheld by the Courts on earlier occasions. It is stated that the applicant is creating hurdles at every stage of inquiry and that the OA cannot be maintained against a charge memo.

5. We heard Sh.A.K.Behera, learned counsel for the applicant and Sh.Manish Kumar, learned counsel for the respondents.

6. The challenge in this OA is to the charge memo dated 16.07.2019. The grounds pleaded by the applicant are referable to the very competence of the Director of the NCERT to issue charge memo and the merits of the Articles of charge. He has also made an effort to point out the certain lapses in the inquiry.

7. In case the charge memo is issued by an authority, not vested with the power under the relevant provisions of law, it would certainly contribute a ground, to interfere with the charge memo itself. Here itself, we may add that barring such a plea, no other ground can be accepted for interfering with the charge memo.

8. The applicant does not dispute that under the Conduct Rules, the Director is conferred with the power to act as Disciplinary Authority against the employees holding the position which, the applicant now holds. Once the rules confer such power, the equation as regards the status or emoluments between the Disciplinary Authority on the one hand and the charged official on the other hand, virtually becomes irrelevant.

9. The question as to whether the Director of NCERT can act as Disciplinary Authority against persons holding the position of Lecturer or Professor, was dealt with by the Hon'ble Supreme Court in C.A. No.7563/2011 (NCERT Vs. Surendranath). After extracting the relevant provisions of Conduct Rules, the Hon'ble Supreme Court held that the Director does have such a power. In their short reply the respondents have extracted the relevant portion of the judgement of the Hon'ble Supreme Court. The learned counsel for the applicant did not even point out that the judgement of the Hon'ble Supreme Court does not apply to the facts of the case.

10. Once it emerges that the Director of NCERT act as Disciplinary Authority, there is no way that the applicant can challenge the charge memo. Various

grounds urged by him on the merits of the charge cannot be entertained at this stage. The very purpose of conducting the departmental inquiry is to examine whether the charges framed against an employee are true or not. The employee will have full opportunity to put forward his case. Even if the findings of the Inquiry Officer are not correct, the employee can point out the same in his remarks to be submitted to the Disciplinary Authority. The remedy of appeal against the order of punishment also exists. Therefore, the question of interfering with the charge memo does not arise.

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