
(2021) 02 CAT CK 0086

In the Central Administrative Tribunal

Case No : Original Application No. 3060 Of 2019

Sangeeta Saxena

APPELLANT

Vs

Bharat Sanchar Nigam Ltd. & Others

RESPONDENT

Date of Decision : 12-02-2021

Acts Referred:

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

Citation : (2021) 02 CAT CK 0086

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

Bench : Division Bench

Advocate : Harsh Panwar, R.V. Sinha

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicant was appointed as Telephonic Operator Assistant ((TOA) on 14.10.2003 on compassionate grounds. She remained absent

continuously from 21.03.2005 till 05.01.2006. A charge memo was issued to the applicant on 24.01.2006 under Rule 14 of the CCS (CCA) Rules,

1965. She submitted an explanation on 11.12.2007. Not satisfied with that, the Disciplinary Authority (DA) appointed an Inquiry Officer (IO). In his

report dated 19.08.2008, the IO held the charges as proved. The report of the IO was made available to the applicant. Thereafter, the DA passed an

order dated 31.12.2008 imposing the punishment of removal, upon the applicant. The appeal preferred against the order of removal was rejected on

25.05.2010 and the review to the CGM was rejected on 16.03.2012.

2. The applicant filed OA No. 3634/2013 challenging the order of removal but has withdrawn the same stating that she intends to pursue the remedies

in the department. The representation made to the department was rejected through order dated 28.07.2018 by stating that the appeal and review

preferred by the applicant were already disposed and there is no provision under the rules for further review against the order passed by the

Revisionary Authority. This OA is filed challenging the order of punishment dated 31.12.2008, charge sheet dated 24.01.2006 and the orders passed

by the Revisionary and Appellate Authority. The applicant raised several contentions touching on the merits of the case.

3. On behalf of the respondents, a detailed reply is filed. The respondents raised the ground of maintainability of the OA. It is stated that once the

applicant has filed an OA and has withdrawn the same, the present OA is maintainable in law. It is also stated that the charges against the applicant

are serious in nature and accordingly, the punishment was imposed.

4. We heard Sh. Harsh Panwar, learned counsel for the applicant and Sh. R.V. Sinha, learned counsel for the respondents.

5. The applicant was appointed on compassionate grounds to the post of TOA. Since the facility was to enable the family to tide over the difficulty on

account of the death of the employee, the applicant was required to be grateful and sincere to the administration. It should not be forgotten that the

appointment on compassionate grounds is not provided for under any statutory rules and it was just on the basis of an observation made by the Hon'ble

Supreme Court, in certain cases. Even while thousands of qualified persons remain unemployed, the dependents of deceased employees are appointed

straightway, bypassing the selection A process. When such was the facility extended to the applicant, she remained absent almost for about one year.

The disciplinary proceedings initiated against her ended in the passing of an order of removal. She has also availed the remedies of appeal and review

upto the year 2002. Having filed OA No. 3634/2013, she has withdrawn the same.

6. The representation filed by the applicant before the authorities in the department is not referable to any provision of law. It is fairly well settled that

mere filing of representation not provided for under law, cannot by itself give rise to any cause of action, would stop much less the limitation. Added to

that, the principle of res judicata would also operate against the applicant. The respondents have rightly rejected the representation stating that there is

no provision for entertaining the same, once the appeal and review were rejected.

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