
(2021) 03 CAT CK 0090

In the Central Administrative Tribunal

Case No : Original Application No. 1759 Of 2020

Vimal Bhandari

APPELLANT

Vs

Commissioner North Delhi Municipal Corporation

RESPONDENT

Date of Decision : 18-03-2021

Acts Referred:

Central Civil Services (Pension) Rules, 1972 Rule 48(1), 56(j)

Citation : (2021) 03 CAT CK 0090

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

Bench : Division Bench

Advocate : Rajeev Sharma, R. V. Sinha, Amit Sinha

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicant was appointed as Junior Engineer on 01.12.1988 in the Delhi Municipal Corporation (DMC). He was also promoted as Assistant Engineer in September, 2011. The Appointing Authority passed an order dated 31.10.2019, compulsorily retiring the applicant by invoking FR 56 (j) and Rule 48 (1) of CCS (Pension) Rules, 1972 (Pension Rules).

2. The applicant contends that the impugned order was issued without proper application of mind, and that it is contrary to OM dated 11.09.2015 issued by the DoP&T. He further contends that in the OM, it was clearly mentioned that no developments, that have taken place before an officer was promoted, must be taken into account in the context of compulsory retirement, and in utter disregard of that, the impugned order was passed.

3. The respondents filed a detailed counter affidavit. According to them, the service of the applicant was full of disciplinary proceedings and for all practical purposes he became not only a deadwood but also a menace to the department. They contend that the Committee constituted for the purpose of identifying the officers for invoking FR 56 (j) examined the case of the applicant, in detail and

ultimately it was decided to retire him on compulsory basis.

4. We heard Shri Rajeev Sharma, learned counsel for the applicant and Shri R. V. Sinha with Shri Amit Sinha, learned counsel for the respondents.

5. The applicant is aggrieved by the order of compulsory retirement dated 31.10.2019. The respondents passed it by invoking FR 56 (j) and Rule 48 (1) of Pension Rules. The circumstances under which the order of compulsory retirement can be interfered with by the Tribunal or Courts are fairly well settled. Basically, it is not treated as a punishment, and secondly, the interference would be possible only when there does not exist any material whatever, against the concerned officer. Here itself, a note of caution needs to be added, viz. that once the material exists in whatever form, the adequacy thereof is not justiciable. Reference in this context is made to the judgment of the Hon'ble Supreme Court in Baikunthanath Das & others v. Chief District Medical Officer, Baripada & others, (1992) 2 SCC 299, and other judgments on the issue.

6. Coming to the present case, this is not an instance of there not being any material at all. If one takes into account, the number of disciplinary proceedings initiated against the applicant, it would be startling. The respondents have furnished a detailed account of the disciplinary proceedings initiated against the applicant and the result thereof. Between 1991 and 2012, as many as, 25 proceedings were initiated and out of them, 19 resulted in imposition of one penalty or the other. The particulars thereof are as under:-

Sl. No.

RDA No.

Penalty

(i)

1/264/1991

Stoppage of Two increments without Future effect vide O.O. dt. 12.0.1993.

(ii)

1/141/1992

Stoppage of one increment without future effect dt. 24.7.1995

(iii)

1/192/1993

Exonerated vide O.O. dt. 3.7.1995.

(iv)

3/187/1994

Censured vide O.O. 10.2.1998

(v)

2/297/1994

Censured vide O.O 29.11.1999

(vi)

2/326/1994

Censured vide O.O. dt. 19.5.1997

(vii)

2/362/1994

Stoppage of Two increments without future effect vide O.O dt. 4.6.1997

(viii)

3/377/1994

Reduction in present time scale by three stages for three years during which he will not earn any increment and it will have postponing future effect vide O.O. No. 14 dt. 05.01.1999.

(ix)

1/256/1995

Stoppage of one increment without future effece vide O.O dt. 8.9.1999

(x)

2/260/1995

Stoppage of one increment without future effect vide O.O. dt. 19.5.1997

(xi)

1/325/1995

Closed vide O.O. dt. 23.08.1999

(xii)

1/326/1995

Reduction of time scale of pay by two stages for a period of four years without cumulative effect vide O.O. no. 787 dt. 28.9.1999

(xiii)

2/40/1996

Stoppage of one increment without future effect vide O.O. dt. 1.2.2000.

(xiv)

2/130/1996

Stoppage of two increments without future effect vide O.O. dt. 23.3.1999

(xv)

1/176/1996

Reduction in time scale of pay by one stage for a period of one year without future effect dt. 22.11.01.

(xvi)

2/34/2001

Stoppage of three increments without cumulative effect vide OO no. 2/34/2001/Vig./P/RKC/2004/6 18 dt. 2.4.04.

(xvii)

2/74/2001

Censure vide O.O. dt 13.2.2004

(xviii)

2/288/2001

Case is closed vide O.O. No. 411 dt. 23.08.2010

(xix)

1/165/2005

Exonerated vide O.O. No. 1/165/05/Vig. /P/GKG/2011/86 dt. 25.2.11

(xx)

1/89/2007

Exonerated vide O.O. No. 1/89/2007/07/Vig./P/GKG/20 10/424 dt. 30.8.10.

(xxi)

1/53/2008

Advisory Memo vide O.O. No. AE/Vig./DC/2012/SD-41 dt. 31.7.2012.

(xxii)

1/44/2000

Censure vide O.O. dt. 9.2.2005

(xxiii)

1/119/2001

Stoppage of one increment without future effect vide O.O. dt. 10.3.2010

(xxiv)

1/240/2001

Stoppage of one increment without future effect dt. 24.9.2008

(xxv)

1/55/2012

Reduction in the present time scale of pay by two stages for a period of two years with cumulative effect vide O.O. no. 1/55/2012/Vig./P/HB/2015/59 7 dt. 15.12.2015.

7. It is indeed a matter of serious concern that the conduct of the applicant was such that as many as 25 proceedings came to be instituted. While in certain cases, major penalty was imposed, in other cases, the minor penalties were imposed. The mere fact that he was exonerated in a handful of them, does not make much difference. The initiation of each disciplinary proceeding would warrant the attention of the DA, the IO, the Presenting Officer as well as the witnesses. When a substantial time in the office is devoted to the disciplinary proceedings, one cannot expect any contribution by him in the department. On the other hand, the time of the others in the department tends to be wasted upon it. It can fairly be said that the background of the applicant is such that he cannot be said to be of any further utility to the department.

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