



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 3563/2019

New Delhi, this the 17th day of December, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Capt. Pramod Kumar Bajaj,
Aged 59 years
S/o late Sh. P.D. Bajaj,
R/o 222, M.G. Road,
Lucknow.

.. Applicant
(Applicant in person)

Versus

Union of India
Through the Chairman CBDT,
Department of Revenue,
Government of India,
North Block, New Delhi-110001.

.. Respondent

(By Advocate : Shri Hanu Bhaskar)

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicant is an Officer of 1990 Batch of IRS.
When he was working at Lucknow as Commissioner of



Income Tax (Exemption), his case was considered for appointment as Member of the Income Tax Appellate Tribunal (ITAT). It is stated that he was placed in the selection list. At that stage, several proceedings ensued in the context of his transfer, followed by suspension and issuance of Charge Memorandum. It is not necessary to refer to them in detail.

2. The applicant was issued a Charge Memorandum dated 17.06.2019, which contained 3 Articles of charge. In the 1st article, it is alleged that the applicant attended Courts for conducting the cases by himself, without applying for leave. The 2nd article is about the alleged settlement of an item of immovable property, in the name of his wife, as a condition of divorce; and failure to inform the Department about the acquisition and subsequent transfer of the property. The 3rd article stated that the wife of the applicant, by name Ms. Rakhi, complained that the applicant has indulged in acts of bigamy.



3. The applicant contends that the charges are either vague or uncertain or totally obsolete. It is submitted that the 1st article is about conducting of the cases in the High Courts/Tribunal in person, is vague and, in as much as, it was not even alleged that he was absent from duties on those dates. The applicant further contends that the property settled upon his wife, as alimony of divorce, was purchased by his brother; and the contents of the 2nd article are factually incorrect. It is also his case that the complaint as to bigamy was made way back in 2007 and, hence, the departmental proceedings in relation to that, are to be treated as *non est*. In this O.A., the applicant challenged the Charge Memorandum and prays for quashing the same, on several other grounds.

4. Respondents filed a counter affidavit opposing the O.A. It is stated that the truth or otherwise of the allegations mentioned in the Articles of Charge can be examined only in the departmental inquiry, and the O.A. is not maintainable. It is also stated that the



applicant attended the High Court and the Tribunal on many days, without applying for leave, and the same constitutes an act of misconduct. The respondents further contend that the applicant did not inform the Department about the acquisition of the property, which was settled upon his wife. They justify the 3rd article by stating that it was the result of the complaint, made in the recent past.

5. The applicant argued the O.A. in person and during the course of the arguments, he elaborated the grounds urged in the O.A. He submits that the entire exercise was mala fide, in as much as, the Charge Memorandum was issued only with a view to deprive him, of the benefit of selection as the Member of ITAT.

6. Shri Hanu Bhaskar, learned counsel for the respondents, submits that the O.A. is not maintainable and the truth or otherwise of the allegations can be decided only in the proposed inquiry. He further submits that the charges levelled against the applicant



are very serious in nature, and there is no basis to quash the Charge Memorandum.

7. Before proceeding to discuss the matter on merits, we need to take into account, the fact that the applicant was compulsorily retired, through an order dated 27.09.2019 issued by the President, in exercise of power under Rule 56(j) of the Fundamental Rules.

8. The applicant was issued a Charge Memorandum dated 17.06.2019, which contained the following articles of charge :

Article of Charge-I

Capt. P.K. Bajaj has initiated large number of legal proceedings before the Hon'ble CAT at Lucknow and Hon'ble High Court of Allahabad challenging actions of the Department and appeared in person before the Hon'ble CaT/ High Court of Allahabad on a series of hearing without seeking any kinds of leave. On 05.03.2019, Capt. Bajaj appeared before the Hon'ble CAT, Lucknow Bench in person without seeking any kinds of leave. Appearance of Capt. Bajaj in the Court without permission of Competent Authority/ grant of leave of any kind is tantamount to misconduct. As per Rule 7 of CCS (Leave) Rules, 1972, leave cannot be claimed as matter of right. Leave should always be applied for and sanctioned before it is taken, except in cases of emergency and for satisfactory reasons. Thus, Capt. P.K. Bajaj has violated Rule 7 of CCS (Leave) Rules, 1972 read with DOP&T's O.M. No. 11013/7/04-Estt.(A) dated 18.05.1994 and Govt. of India's decision No. 30-A under Rule 3C of CCS (Conduct) Rules, 1964.



By the aforesaid acts, Capt. P.K. Bajaj has violated Rule 7 of CCS (Leave) Rules, 1972 read with DOP&T's O.M. No. 11013/7/04-Estt.(A) dated 18.05.1994 and Govt. of India's decision No. 30-A under Rule 3C of CCS (Conduct) Rules, 1964 and exhibited conduct unbecoming of a Government servant in contravention of Rule 3(1)(iii) of CCS (Conduct) Rules, 1964.

Article of Charge-II

Capt. P.K. Bajaj has been wedded one Ms. Rakhi, apparently his 4th number wife. As a sequel to a marital dispute between them and in compliance to a court ordered for mediation proceedings, Capt. Bajaj agreed to give his wife, in alimony, a flat in Ashok Vihar, Delhi. This settlement was a part of full and final arrangement between the officer and his estranged wife for divorce. Capt. Bajaj purchased the property having cost around Rs. 70 to 80 lacs and handed over the same to his wife. As per records, Capt. Bajaj had not given intimation for acquisition of the aforesaid property and transfer of it as required under Rule 18(2) of CCS (Conduct) Rules, 1964.

By the aforesaid acts, Capt. P.K. Bajaj has violated Rule 18(2) of CCS (Conduct) Rules, 1964 and exhibited conduct unbecoming of a Government servant in contravention of Rule 3(1)(ii) and Rule 3(1)(iii) of CCS(Conduct) Rules, 1964.

Article of charge-III

Ms. Rakhi, happens to be 4th number of wife of Capt. P.K. Bajaj has filed a complaint regarding charge of bigamy act against Capt. Bajaj. It has been alleged that Capt. Bajaj married her during subsistence of an earlier marriage. Record indicates that Capt. Bajaj was first married to one Ms. Anupma. Thereafter, on account of some marital discord she left him after a divorce between them. Capt. Bajaj got a male child named through this wife. Subsequently, Capt. Bajaj married Ms. Sapna and got a male child named Harsh through this wife. There are indications of some matrimonial discord amongst them. Thereafter, Ms. Sapna disappeared from the scene. No judicial separation/divorce took place among them. As per existing laws a person is declared civil dead only after 7 years of his/her



disappearance. Capt. Bajaj then married to Ms. Renu and subsequently Ms. Rakhi (4th no. of wife). Since, no judicial separation/divorce took place between the officer and Ms. Sapna neither are any evidence of her death, the marriages undertaken by Capt. Bajaj with Ms. Renu and then Ms. Rakhi fall under the mischief of the clear case of bigamy.

Rule 21(2) of CCS (Conduct Rules, 1964 states that *“no Government servant having a spouse living, shall enter into, or contract, a marriage with any person:*

Provided that the Central Government may permit a Government servant to enter into, or contract, any such marriage as is referred to in Clause (1) or Clause (2), if it is satisfied that

- (a) Such marriage is permissible under the personal law applicable to such Government servant and the other party to the marriage; and
- (b) There are other ground for so doing.”

By the aforesaid acts, Capt. P.K. Bajaj has violated Rule 21(2) of CCS(Conduct) Rules, 1964 and exhibited conduct unbecoming of a Government servant in contravention of Rule 3(1)(iii) of CCS (Conduct) Rules, 1964.

9. This O.A. is filed challenging the Charge Memorandum, mainly on the ground that the articles are either vague or obsolete. The contention as to the vagueness is with reference to Article No.1; and that of the obsolete nature is with reference to Article No.3. Regarding Article No.2, the applicant states that it is factually incorrect.



10. Article No.1 cannot be said to be vague, if one take into account, the Statement of Imputation, contained in Annexure-II. The respondents have furnished the list of dates, on which, the applicant has attended the High court or the Tribunal. The question as to whether he discharged the duties on those dates, can be examined, only in the course of inquiry.

11. Coming to the 2nd article, the allegation is that the applicant did not inform the Department about the acquisition of the property. Here again, a dispute exists as to whether the property was acquired by the applicant himself or his brother. This is not the forum to decide that issue, and the applicant can put forward all the factual and legal contentions, in the course of the inquiry.

12. With reference to the charge contained in Article No.3, the applicant submits that this very allegation was dealt with by the department at various stages, while submitting the report to the Screening Committee



for selection of Member ITAT, and that it was mentioned that nothing of that sort existed.

13. It is fairly well settled that scope of power of the Tribunal to interfere with the charge memorandum is very limited. It is only (a) where a charge memorandum is issued by an authority not to be covered; or (b) where the charges, even if taken as true, did not constitute an act of misconduct; or (c) where the subject matter of the charge is too old, normally exceeding one decade, that a possibility to interfere may exist. None of those circumstances are present in this O.A.

14. Reliance is placed on the judgment of the Hon'ble Supreme Court in **State of Madhya Pradesh vs. Bani Singh**, AIR 1990 SC 1308. That was a case in which the disciplinary proceedings were initiated against an Officer, in relation to an instance, which took place 12 years prior to the issuance of charge memorandum. Such is not a case here. Though reliance is placed, the other judgments cited by the applicant, they are not of immediate relevance to the facts of this case.



15. The applicant contends that some of the documents mentioned in the Charge Memorandum, are not issued to him. If that is so, the respondents shall ensure that all the relied upon documents are furnished to him.

16. We do not find any merit in the O.A. and, accordingly, the same is dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/jyoti/