

Central Administrative Tribunal
Principal Bench, New Delhi

(16)

O.A.No.3255/2001

Friday, this the 23rd day of August, 2002

Hon'ble Mrs. Lakshmi Swaminathan, VC (J)
Hon'ble Mr. S. A. T. Rizvi, M (A)

Shri P. C. Saini
s/o Shri Ram Chand Saini
r/p SH 255 A, Shastri Nagar
Ghaziabad-201002 (UP)
(By Advocate: Shri S.K. Gupta)

....Applicant

VERSUS

1. Union of India
Through its Secretary
Department of Agriculture & Cooperation
Krishi Bhawan, New Delhi-1
2. The Director
National Biofertilizers Development Centre
Kamla Nehru Nagar, Ghaziabad - 201002
3. Dr. P. Bhattacharya
Enquiry Officer & Regional Director
RBDC, Nagpur

(Respondent No.3 to be served through Respondent No.2)
(By Advocates: Shri R. V. Sinha and R. W. Singh) ... Respondents

O R D E R (ORAL)

Hon'ble Shri S. A. T. Rizvi:

The applicant, an Assistant Superintendent with the Indian Grain Storage Management & Research Institute (for short 'IGSMRI'), joined the respondent No.2's Organization on deputation on 18.10.1995. He was absorbed in that Organization on 28.9.1998. By an order passed by this Tribunal in OA-2332/2000 on 16.4.2001, the applicant's ~~deputation~~ ^{absorption} with respondent No.2 was declared ~~ab-initio~~ void. Accordingly, he was relieved by the respondent No.2 on 19.10.2001 to re-join his parent Organization, namely, IGSMRI on 22.10.2001. However, in the meanwhile, on 14.5.2001, the respondent No.2 (borrowing department) had served a charge-sheet on the applicant in respect of certain acts of omission and commission for which he was held responsible during ~~the~~ period of ¹⁵ 2

deputation with the respondent No. 2. The applicant prays that the aforesaid charge-sheet (A-1) should be quashed and set aside.

2. The learned counsel appearing on behalf of the respondents argues, by relying on the provisions of Rule 20 of the CCS (CCA) Rules, 1965, that the applicant is required to be tried departmentally by the respondent No. 2 upto the stage of findings in the disciplinary proceedings ^{2 and upto the stage} when the respondent No. 2 (borrowing department) has arrived at the conclusion that a major penalty was required to be imposed on the applicant. It is only after the aforesaid conclusion has been arrived at that the proceedings of the inquiry ~~should~~ be transmitted to the lending department (IGSMRI) for further action contemplated in Rule 20 (2)(ii) of the CCS (CCA) Rules.

3. The learned counsel appearing on behalf of the applicant submits that since the applicant has already been reverted to the parent Organization (IGSMRI), the respondent No. 2 will not have the authority to act as above. According to him, it will be in order, in such a case, to place reliance on the Government of India's instruction reproduced below the aforesaid Rule 20 which reads as under:-

"Procedure to be followed when deputation comes to an end.— Rule 20 is not applicable, for the purpose of instituting departmental proceedings, to a State Government servant whose services were borrowed by the Central Government and have since been replaced at the disposal of the State Government. The Ministry/Department of the Central Government concerned may in such a case complete such preliminary enquiry as they may consider necessary and forward the relevant records to the State Government for instituting departmental proceedings and further necessary action."

4. The learned counsel for the applicant submits that though the present case is not one in which a State Government servant has been borrowed by a Central Ministry/Department as visualized in the aforesaid instruction, yet the spirit of the rule propounded in the aforesaid instruction will apply in the facts and circumstances of

the present case. The aforesaid instruction visualizes a situation in which a State Government servant has been reverted to the State Government after serving with a Central Ministry/Department and the Government servant concerned is found guilty of acts of omission and commission during the period of deputation with the Central Ministry/Department. In such a case, according to the aforesaid instruction, the Central Ministry/Department could complete preliminary inquiry into the matter and thereafter forward the relevant records to the State Government for instituting departmental proceedings and for further necessary action. In the present case, according to him, the respondent No. 2 (borrowing department) has served a charge-sheet on the applicant at the time the applicant was on deputation with the respondent No. 2. Before the inquiry could proceed any further and the respondent No. 2 could reach any conclusions, the applicant stood reverted to his parent department (IGSMRI) on 22.10.2001. That being so, the only option available to respondent No. 2, according to the learned counsel, is to transmit the proceedings of the inquiry to the lending department leaving it to that department to complete the disciplinary proceedings and impose a penalty on the applicant.

5. We have considered the submissions made by either counsel and have carefully considered the rule position contained in the aforesaid Rule 20. We have also kept in view the spirit of the Government of India's instruction reproduced below the aforesaid Rule 20 of CCS (CCA) Rules, 1965. The disciplinary proceedings initiated by the respondent No. 2 have admittedly not made any headway. The applicant is already back in his parent department clearly (IGSMRI). Rule 20 of CCS (CCA) Rules, 1965 visualizes a situation where the delinquent Govt. servant is subjected to departmental

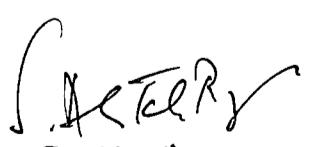
is upto the stage of findings & proceedings during the period of his deputation with the borrowing department. It does not visualize a situation where, even before the disciplinary proceedings have made any headway, the delinquent Government servant stands reverted to his parent department. A situation of this kind has not been visualized in the aforesaid rule. We are, therefore, left with no option but to rely on the spirit of the Govt. of India's instruction already reproduced in paragraph No. 3 above. The spirit of the aforesaid instruction is quite clear and it is in keeping with ~~section~~ ^{the same} that we find it in order to take the view that the respondent No. 2 will be well-advised to transmit the proceedings of the inquiry to the lending department, who will, in turn, complete the disciplinary proceedings in accordance with the prescribed procedure. The lending department will no doubt proceed on the same charge-sheet which was served on the applicant when he was on deputation with the respondent No. 2. In the circumstances, the learned counsel appearing on behalf of the applicant does not press for quashing and setting aside of the charge-sheet.

6. In the light of the foregoing, the present OA is partly allowed with the following directions to the respondents:

i) The respondent No. 2 shall transmit the proceedings of the inquiry along with the charge-sheet to the lending department (IGSMRI) expeditiously and in any event within a period of one month from the date of receipt of a copy of this order.

ii) The IGSMRI (lending department) will proceed with the inquiry on the basis of the same charge-sheet in accordance with the prescribed procedure, rules, law and instructions on the subject.

7. There shall be no order as to costs.


(S.A.T. Rizvi)
Member (A)

/sunil/


(Mrs. Lakshmi Swaminathan)
Vice Chairman (J)