

13

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

DATED : THIS THE 08th DAY OF APRIL 1999

Coram:- Hon'ble Mr.S. Dayal, A.M.

Hon'ble Mr.S.L. Jain, J.M.

ORIGINAL APPLICATION NO.1078/87

Rajbeer Sharma s/o Late Shri Nanak Chand Sharma
R/O 2/R/35 Ayudh Nirmani Moradnagar, Distt.
Ghaziabad.

... Applicant.

Counsel for applicant Sri H.N.Sharma, Adv.

Versus

1. Union of India through Ministry of Defence New Delhi.
2. General Manager Ordnance Factory Board, Ordnance Factory Muradnagar Distt. Ghaziabad.
3. Estate Officer, Officer Ordnance Factory, Moradnagar, Distt. Ghaziabad.

... Respondents.

Counsel for the respondents Sri A. Sthalekar. Adv.

Order

(By Hon'ble Mr.S. Dayal, A.M.)

This application has been filed by the applicant for a direction to the respondents for setting aside the orders dated 16.9.97 and 15.3.97. A prayer has also been made for restraining the respondents from evicting the applicant from Quarter No. 2/R/35, Ordnance Factory of Muradnagar till the pendency of appeal.

-2-

2. The facts as mentioned by the applicant are that:-

The applicant was implicated in a false case under sections 376/511 Indian Penal Code. He was sentenced by the Court of Addl. Special Judge, Ghaziabad by order dated 4.12.96. He preferred a Criminal Appeal No. 2219/96 which was admitted and bail was granted to him on 17.12.96. The operation of order of Addl. Special Judge, Ghaziabad was also stayed by the High Court vide order dated 17.12.96. The respondents by their order dated 17.12.96x 15.3.97 imposed the penalty of removal upon the applicant in exercise of powers under ~~the~~ rule 19(i) C.C.S. C.C.A. rules. While this O.A. was being pursued by the applicant he filed another O.A. No.379/98 in which he obtained interim relief by concealing the fact that he had filed Misc. Application No. 362/98 for interim relief in this case as also the fact that he had challenged initial rejection of interim relief in O.A. 1078/97 in the High Court and the High Court had declined to intervene in the matter but had allowed the possession of quarter to him on the undertaking that he would vacate the premises within three months. This order was passed by the High Court in Civil Misc. Writ Petition No. 39665/97 on 27.11.97. Thus while this application was pending the applicant resorted to concealment of fact and filed another O.A. for want of the relief claimed in this application.

3. As far as the relief regarding setting aside of order of removal from service dated

-3-

15.3.97 is concerned we find from the counter reply of the respondents that a show cause notice dated 14.2.97 was given to the applicant prior to passing of order of removal dated 15.3.97. The applicant had replied on 26.2.97 that he has preferred an appeal against his conviction and was granted bail till the pendency of appeal and had stated that the penalty could not be imposed upon him pending the disposal of the appeal. After taking into account representation the respondents have passed order dated 15.3.97 removing the applicant.

4. Rule 19(i) of C.C.S. C.C.A. rules authorises disciplinary authority to consider the circumstances of the case and pass such orders as it deems fit where any penalty is imposed on a Government Servant on the ground of conduct which has led to his conviction on a criminal charge. The proviso shows that the disciplinary authority may give an opportunity of making representation on the penalty prosed to be imposed before any order is made. We find from memorandum / Show Cause notice issued to the applicant dated 14.2.97 that such proposed penalty was shown in paragraph 3 thereof. Thus the provisions of C.C.S. and C.C.A rules have been complied with in ordering removal of the applicant and the order of removal can not be assailed at present. The applicant shall have right to challenge this order only in case he is successful in his appeal.

-4-

5. The application is therefore dismissed as premature. The applicant may come for consideration of his case only after he gets decision in his appeal ~~making~~ lodged in the HighCourt. The O.A. stands dismissed. No order as to costs.

By
Member (J.)


Member (A.)

Nafees.