



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No. 2092/2019
M.A. No.2119/2020

Thursday, this the 14th day of January, 2021

Through video conferencing

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

Pramod Kumar Rawat (about 70 years)
s/o late Shri K B Rawat
r/o D-605, UNESCO Apartment
Plot No.55, Patparganj,
Delhi – 110 092

.. Applicant

(Through Mr. Ajay Kumar Srivastava, Advocate)

Versus

Union of India through Secretary
Ministry of Home Affairs
North Block, New Delhi

.. Respondent

(Through Mr. Gyanendra Singh, Advocate)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:

The applicant was working as Section Officer in the Ministry of Home Affairs. The CBI made a search at his residence on 28.05.2005 and 30.05.2005. On the basis of the search, the CBI submitted a complaint in the Criminal Court. Sanction was accorded for prosecution of the applicant on 07.07.2009. Shortly thereafter, the departmental proceedings were initiated by issuing a



charge memo dated 25.09.2009. The allegation was that the applicant possessed the assets, which are disproportionate to his known sources of income. The applicant denied the charges and accordingly, the Disciplinary Authority (DA) appointed the Inquiry Officer (IO) on 18.12.2009. The IO submitted his report on 24.03.2014, holding that the charges are not proved. The DA, however, issued a disagreement note on 11.08.2014. In the meanwhile, the applicant retired from service and an the order was passed on 15.01.2016 imposing the penalty of withholding of 10% of monthly pension for a period of two years.

2. In the case registered by the CBI, the concerned Court rendered its judgment on 18.01.2017, holding that the applicant was in possession of assets, disproportionate to the extent of 16.60%, to the known sources of income. Accordingly, the applicant was convicted and sentenced to undergo imprisonment for a period of two years. In the Appeal preferred by the applicant, the Hon'ble Delhi High Court stayed the sentence on 03.03.2017.

3. As a sequel to the judgment of the Criminal Court, the appointing authority initiated the proceedings on 25.09.2018. The explanation received from the applicant was forwarded to the Union Public Service Commission



(UPSC). The advice tendered by the UPSC on 25.03.2019 was made available to the applicant. It was for withholding of the entire pension and forfeiture of the entire gratuity. The applicant submitted his representation and not satisfied with that, the DA passed order dated 13.05.2019 imposing penalty of withholding of 100% of the monthly pension and forfeiture of entire gratuity. This O.A. is filed with a prayer to set aside the order dated 13.05.2019 and to extend to the applicant all the pensionary benefits.

4. The applicant contends that on the same set of allegations, he was imposed the punishment of withholding of 10% of monthly pension for a period of two years and there was absolutely no basis for the respondents to pass another order of punishment imposing the penalty of withholding of 100% of the monthly pension and forfeiture of entire gratuity. According to the applicant, it amounts to double jeopardy. Reliance is placed upon the judgment of the Madras High Court dated 17.02.2009 in W.P. No.28847/2004 between **D. Narayanan v. District Revenue Officer & others.**

5. The respondents, on the other hand, filed a detailed counter affidavit. According to them, the purpose of initiating criminal proceedings was substantially different and the impugned order cannot be treated as the one



resulting in double jeopardy. It is stated that the parameters for adjudication of the departmental proceedings on the one hand and the criminal cases on the other are different. It is also stated that wherever an employee is convicted in a criminal case on the allegations of moral turpitude, Article 311 (2) of the Constitution of India provides for dismissal from service without conducting any inquiry and the CCS (Pension) Rules provide for the forfeiture of pension.

6. We heard Mr. Ajai Kumar Srivastava, learned counsel for applicant and Mr. Gyanendra Singh, learned counsel for respondents, at length, through video conferencing.

7. The basic facts are not in dispute. A search was conducted at the residence of the applicant on 28.05.2005 and 30.05.2005 and a case was registered by the CBI. Even while taking the steps for institution of a case, the CBI recommended initiation of disciplinary proceedings also. It is not uncommon that on the same set of allegations, the departmental proceedings on the one hand and the criminal proceedings on the other, are instituted. In certain cases, the employee seeks stay of the departmental proceedings by taking the plea that he would be required to reveal his defence in case the departmental proceedings are taken forward. In the



instant case, the applicant did not raise that plea and participated in the departmental proceedings. That ended in imposition of withholding of 10% of monthly pension. Thereafter, the Criminal Court rendered its judgment on 18.01.2017 convicting the applicant for offences punishable under the relevant provisions of Prevention of Corruption Act. He was also sentenced to undergo imprisonment.

8. Once the Criminal Court convicts an employee on the charges of moral turpitude, the appointing authority is placed under obligation to dismiss him from service. This is the purport of Article 311 (2) of the Constitution of India. In addition to that, Rule 19 (2) of CCS (CCA) Rules, 1965 provides for this. As and when such a punishment is imposed, it can be said in a way that the earlier punishment, which is imposed on the basis of the departmental proceedings, merges into it and they cannot operate independently. To suggest that once the punishment was imposed on the basis of departmental proceedings, the consequences, provided for under Article 311 (2) of the Constitution of India or Rule 19 (2) of CCS (CCA) Rules, 1965, should not ensue, would amount to subverting the very scheme contemplated under the Constitution and the Service Rules.



9. In a given case, the employee facing serious charges of corruption may encourage the institution of departmental proceedings leading to imposition of minor punishment and then to prevent the consequences flowing from Article 311 (2) of the Constitution or Rule 19 (2) of CCS (CCA) Rules, 1965.

10. It is true that the Hon'ble Madras High Court made certain observations in a matter where the facts were somewhat similar and treated such an exercise as double jeopardy. From the judgment, it does not appear that the attention of Hon'ble Madras High Court was drawn to Article 311 (2) of the Constitution or the provisions *akin* to Rule 19 (2) of CCS (CCA) Rules, 1965 and the CCS (Pension) Rules. It is a different matter that if the Appeal preferred against the judgment of Criminal Court is allowed and the applicant is acquitted, he may get the entire pension. However, till such time, it cannot be said that there is any double jeopardy.

11. We do not find any merit in this O.A. It is accordingly dismissed.

12. M.A. No.2119/2020 shall stand disposed of. There shall be no order as to costs.

(Mohd. Jamshed) (Justice L. Narasimha Reddy)
Member (A) Chairman

January 14, 2021
 /pj/sunil/jyoti/vb/