



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.1777/2020

This the 1st day of July, 2021

(Through Video Conferencing)

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

Rinku Prinja
Age 50 years, Desi-Secretary Group-B,
W/o Sh. Sandeep Kumar Prinja
R/o 3 Wood Lane, Iver Heath, South Bucks,
SLO OLL, London UK

...Applicant

(By Advocate: Ms. Sonia Sharma)

Versus

1. Union of India,
Through its Secretary,
Ministry of Tourism,
Transport Bhawan,
1, Parliament Street
New Delhi
2. Additional Director General
Ministry of Tourism,
Transport Bhawan,
1, Parliament Street,
New Delhi
3. Joint Secretary
Ministry of Tourism,
Transport Bhawan,
1, Parliament Street,
New Delhi
4. The India Tourism
Through Assistant Director,
Government of India,
India House, Aldwych,
London-WC2B4NA



5. Mrs. Shovana Sarangi
 Assistant Director,
 Government of India,
 India House, Aldwych,
 London-WC2B4NA

...Respondents

(By Advocate: Shri A.K. Singh)

ORDER (Oral)

Justice L. Narasimha Reddy:

The applicant joined the Ministry of Tourism as a Stenographer and worked for about ten years, up to 2004. Thereafter she moved to England after resigning her job in the Ministry. The Indian Tourism, respondent No.4, has its own branch in England. The applicant responded to an advertisement issued by the 4th respondent, and she was appointed on 31.07.2006. She was placed on probation for a period of three months. It was mentioned that the appointment would be governed by the terms and conditions enclosed to that order.

2. The applicant contends that she worked without any blemish over the period. Her grievance is that on 13.01.2020, a report was prepared by a disciplinary committee suggesting disciplinary action against her, as may be deemed by the competent authority in terms of the Employment Contract File dated 31.07.2006. The applicant contends that she was not given any charge memo whatever and the very constitution of the disciplinary committee is contrary to law. It is also stated



that many allegations were taken note of and findings were recorded as though it is a regular disciplinary inquiry, without referring to any specific provision of law much less to any charge memo. The applicant contends that the entire procedure adopted by the respondents is contrary to law.

3. During the pendency of the OA, the respondents passed an order dated 27.11.2020 terminating her services. The applicant made a challenge to that by raising several grounds in the rejoinder. It is stated that when the report itself is for taking disciplinary action in accordance with law, the termination, without any such proceedings, is bad in law.

4. The applicant had furnished a detailed account of the developments that are said to have taken place ever since she was appointed in the 4th respondent.

5. The respondents filed a detailed counter affidavit. A strong objection is raised as to the very maintainability of the OA. According to them, the applicant was appointed as per the local laws of London, England and the Tribunal has no jurisdiction to entertain the OA. It is also stated that a detailed inquiry was conducted against the applicant duly giving her opportunity and no illegality has crept in into the proceedings.



6. The OA was heard on several occasions in some detail, giving liberty to the learned counsel for the respondents to furnish clarification on certain aspects.

7. Today, we heard Ms. Sonia Sharma, learned counsel for the applicant and Shri A. K. Singh, learned counsel for the respondents, in detail.

8. It is a matter of record that the applicant was appointed as Secretary, in the 4th respondent organisation vide order dated 31.07.2006. She filed this OA challenging a report dated 13.01.2020 submitted by Disciplinary Committee recommending action against her. Before we deal with the matter on merits, we examine the objection raised on behalf of respondents, about the jurisdiction of the Tribunal.

9. It may be true that the applicant was appointed, in a branch of the 4th respondent in London. The fact however, remains that the 4th respondent that appointed her, is an organisation which is part of the Ministry of Tourism, Government of India. In all the exchanges in correspondence as well as in the orders, it is mentioned that the applicant has to work, with reference to the activities of Indian Tourism, Department of Tourism. What is more important is that even in the notice dated 24.12.2019, which is said to be, the

prelude or basis for conducting inquiry, it was mentioned as under:-



“11. The above facts and the continuous acts of grave disobedience, insubordination, intemperance, misconduct, breach of discipline, doubtful integrity of Ms. Prinja, Locally recruited Secretary has been viewed seriously by the Competent Authority of Ministry of Tourism, Govt. of India. It is decided to examine the matter by an inquiry committee to check the authenticity of the facts/findings brought to this Ministry and submit it's report/recommendations to MOT Hqrs, New Delhi within 03 weeks time from the date of issuance of this letter. The Inquiry Officers would examine all aspects of the acts related to Ms. Rinku Prinja in connection with disciplinary inquiry but not limited to the above-mentioned points. In case, any new fact regarding breach of discipline, insubordination, intemperance, misconduct or doubtful integrity against Ms. Rinku Prinja come in to notice on a later stage, this would also be added in the purview of Inquiry. The Committee will endorse a copy of the findings/report to Ms. Rinku Prinja and would also provide her fair chance to defend against the charges over her. On the basis of the findings of the committee and the comments reply of Ms. Rinku Prinja therein, the Ministry will take it's final decision regarding continuation/termination of services of Ms. Rinku Prinja.”

It is evident that the ultimate decision would be taken by the competent authority of the Ministry of Tourism, Govt. of India. Neither in the counter affidavit nor in the additional affidavit, the respondents have referred to any specific rules, either of Indian origin or of British origin, that govern the applicant or similarly situated employees.

10. The order of appointment of the applicant, in a way, takes in its fold, the general conditions of appointment such



as placing the appointed person on probation and subjecting him to disciplinary proceedings. Even where specific provisions of law do not exist, the basic tenets referable to the principles underlying the Constitution of India, need to be followed. The applicant is an employee of an important wing to the Govt. of India. The mere fact that she is working in a branch, outside the country, does not take away the jurisdiction of the Tribunal as long as she is employed in an establishment of the Ministry of Tourism. Therefore, the objection raised by the respondents is over ruled.

11. On being appointed as Secretary, the applicant was placed on probation for a period of three months. The entire order reads as under:-

“INDIATOURISM OFFICE
LONDON

File No. GOITO/Lon/Rec./06 Dated 31st
July, 2006

OFFICE ORDER

Mrs. Rinku Prinja is hereby appointed as a Secretary in the Indiatourism, London, w.e.f. the forenoon of 1st August, 2006 on a temporary and ad hoc basis at salary scale of 925-20-1525/- plus Cola (as designated by the High Commission of India, London) till further orders.

2. Mrs. Prinja will be on probation for a period of three months from the date of her appointment to the post. After satisfactory



completion of the probation period, she may be considered for a regular appointment.

3. Mrs. Prinja's appointment will be governed by the terms and conditions of service applicable to the local employees, as amended from time to time.

(Vivek Angra)
Director"

It is not the case of the respondents that the probation of the applicant was extended or the appointment was terminated before expiry of three months. Once the applicant was continued without any remark or demur, after expiry of the period of probation, the status of a permanent employee comes to be conferred upon her. It is only by initiating regular disciplinary proceedings in accordance with the relevant provisions of law, that any punishment can be imposed against her. The respondents do not contend that any charge memo was issued to her. The earliest document that constituted the basis for conducting inquiry is the notice dated 24.12.2019 consisting of eight printed pages. It does not refer to any provision of law or conduct rules. On the other hand, the contents thereof indicate that a conclusion was already arrived at, that the applicant is guilty of misconduct, misbehaviour, disobedience etc. Paras 9 and 10 thereof read as under:-

"9. The office tried to conclude her pending issue of pay revision and in light of the fact that



she was preparing her salary for several years, sought her help to provide details of the payment vouchers. In place of providing the relevant documents, Ms. Rinku prepared a due and drawn statement which was examined and observed that she provided the same by manipulating the facts and figures with malafide intentions to get paid more. During the period she has been preparing her salary, the cases of financial irregularity has also been observed (at later stage) by means of overpayment drawn by her viz. (a) salary for the months of Sept, & October, 2017 and Sept. & October 2018. The same couldn't be verified by stationed at India Tourism Paris, in lack of readily available documents in physical form.

10. In view of the above, the response of Ms. Rinku Prinja is not found satisfactory in any manner and previous incidents including non-submission of requisite leave applications has shown her act of wilful disobedience, courtesy, misbehaviour with her superior officers. The act of such breach of security to the official documents at the office is alarming and the reply of Ms. Rinku Prinja in this regard is not acceptable.”

12. The purpose of conducting an inquiry was mentioned in para 11, which has already extracted in the preceding paragraphs. The same paragraph contains a sentence to the effect that any new fact regarding breach of discipline, insubordination, intemperance, misconduct or doubtful integrity against the applicant, that comes to the notice at a later stage, would also be inquired into. Therefore, the said document does not answer the description of the charge memo, as understood, in service law.



13. The inquiry report which is impugned in the OA is also a detailed one. That the notice dated 24.12.2019 constituted the basis for the inquiry, is evident from the very threshold of the report. It has already been mentioned that definite findings were recorded to the effect that the applicant is guilty of misconduct and insubordination. The committee proceeded to record its finding running into 6 or 7 pages. Under the heading “Final Submission”, the Committee observed as under:-

“Final Submission

While summarizing the nature of the charges vis-a-vis the findings noted above, the Committee also took on record placed before it, the previous two communications, as noted below, issued to Mrs. Rinku Prinja by two of the erstwhile officer in charge's of the India Tourism, London, as they are found very much relevant for the present disciplinary proceedings:

- a) Quote “Mrs. Rinku Prinja would habitually take leave whenever there is some urgency and extra load of work in the Office like Audit, Visit of VIPs etc., which is not good for the smooth functioning of Office” Unquote- Mr. R. K. Sunani (Exhibit No.32a, b.)
- b) Quote “She took leave without the knowledge of the undersigned and at a time when her service was badly required, it is further observed that Mrs. Rinku Prinja is habitual in taking leave without prior approval” Unquote- Mr. BB Mukherjee (Exhibit No.33a,b).

Consideration of the above two communications along with present findings as noted above with each of the charges labelled in the Enquiry Notice dated 24th December, 2020, clearly establish, without an iota of doubt, that Mrs. Rinku Prinja is liable to be charged with the following:

- (a) Inadequate performance,



- (b) Willful disobedience and neglect of duties,
- (c) Insubordination
- (d) Unwillingness to work as a team member and
- (e) Non-compliance of instructions of senior officer."

The conclusion of the committee reads as under:-

"Hence the Committee recommends necessary disciplinary action against Mrs. Rinku Prinja, Secretary, ITO, London as deemed fit by the Competent Authority, in terms of the Employment Contract File No.GOITO/LON/Rec/06 dated 31st July, 2006 subsisting between her and Indiatourim Office, London."

If one takes into account the content, the report and the procedure adopted by the Committee, and the conclusions arrived at or the recommendations made therein, it would be difficult to find any traces or facets of the disciplinary proceedings. The very suggestion that necessary disciplinary action must be taken against the applicant, discloses that a separate set of proceedings must commence, with the issuance of a charge memo. For all practical purposes, the report needs to be taken as the culmination of a preliminary inquiry, and that of a regular inquiry. That not having been taken place, the report by itself, cannot lead to any tangible action. Therefore, the order of termination of the applicant based upon the said inquiry cannot be sustained in law.

14. We, therefore, allow the OA, declaring that the report dated 13.01.2020 shall not by itself constitute the basis to impose any punishment against the applicant, and at the most it can be the basis for initiation of disciplinary proceedings, in

accordance with law. It shall be open to the respondents to initiate the disciplinary proceedings in accordance with the relevant provisions of law, duly giving an opportunity to the applicant. The order of termination dated 27.11.2020 is set aside. There shall be no order as to costs.



(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/vb