

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW.

O.A./CCP/R.A. No. 58 of 2007

Date of Decision 17/3/20

Paras Nath Mishra

Applicant/s

Sri P. Awasthi & Sri Shreebh Kumar

Advocate for the Applicant/s

Versus

Union of India & Others

Respondents

Sri Shatrughan Lal

Advocate for Respondents

CORAM

HON'BLE MS. JASMINE AHMED, MEMBER-J

HON'BLE MR. DEVENDRA CHAUDHARY, MEMBER-A

1. Whether Reporters of local newspapers may be allowed to see the judgment - Yes/No
- ✓ 2. Whether to be referred to the Reporter or not? Yes/No
3. Whether their lordships wish to see the fair copy of the judgment? Yes/No

Hon'ble Member J/A

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

Original Application No. 58 of 2007

Reserved on 24.2.2020

Pronounced on 17/3 March, 2020

Hon'ble Ms. Jasmine Ahmed, Member - J

Hon'ble Mr. Devendra Chaudhry, Member - A

Paras Nath Mishra, aged about adult, S/o late Sri S.D. Mishra, R/o Village Pure Muneshwar, Post Chandaaur, District Sultanpur.

..... Applicant

By Advocate: Sri P.K. Awasthi for Sri Shireesh Kumar.

Versus

1. Union of India through the Chairman, Central Administrative Tribunal, New Delhi.
2. The Vice-Chairman, Central Administrative Tribunal, New Delhi.
3. The Principal Registrar, Central Administrative Tribunal, New Delhi.

..... Respondents

By Advocate: Sri Shatrohan Lal

ORDER

By Ms. Jasmine Ahmed, Member -J

By means of this O.A., the applicant, who was working on the post of L.D.C. on adhoc basis in Central Administrative Tribunal, Lucknow Bench, Lucknow has assailed the legality, validity, correctness and propriety of the order dated 25.1.2005 by means of which he has been dismissed from service and order dated 24.3.2006 passed by the Principal Registrar, CAT, New Delhi whereby the punishment imposed upon the applicant vide order dated 25.1.2005 has been converted into compulsory retirement.

2. In nutshell, the case of the applicant is that the applicant, while working on the post of LDC on adhoc basis, was issued a charge-sheet dated 7.4.2004 leveling three charges namely (i) the applicant received a sum of Rs. 85000/- towards bribe from one Sri Ramakant for getting his appointment on the post of Clerk; (ii) applicant was unauthorisedly absent from duty w.e.f. 25.8.2003 to 4.9.2003 and from 13.10.2003 to 21.12.2003; and (iii) applicant submitted a false and forged medical

certificate as well as fitness for the period of his unauthorized absence. Upon receipt of the charge-sheet, the applicant submitted his reply on 20.5.2004 by denying the charges leveled against him. Thereafter, enquiry was instituted and after completing the enquiry, the Enquiry officer submitted his report to the disciplinary authority on 25.10.2004. The copy of enquiry report was furnished to the applicant vide letter dated 10.11.2004 requiring the applicant to submit his version, to which the applicant submitted a detailed objection on 15.12.2004. The Enquiry Officer in his report held that the charge nos. 1 & 3 have been proved, while charge no.2 has not been proved. Upon receipt of the enquiry report, the disciplinary authority passed an order dismissing the applicant from service vide order dated 25.1.2005. Against the said order, the applicant preferred an appeal, which was decided vide order dated 24.3.2006 by converting the punishment for dismissal from service into compulsory retirement. Hence, this O.A.

3. The main grounds for challenging the impugned orders are that the sole witness Sri Ramakant was examined on the back of the applicant with the result the applicant was not provided reasonable & fair opportunity to defend himself and all the relied upon documents can only be admitted or denied by the person concerned only, but the Enquiry Officer has failed to consider this aspect and proceeded ahead by treating the documents have been manufactured by the applicant in absence of any material and the impugned orders are mechanical and cryptic in nature as the same did not discuss the material thing and have been passed on wrong appreciation of the facts and that the Enquiry officer has completely ignored the fact that the fraud might have been committed by the said Sri Rama Kant and took other pleas.

4. On the other hand, the learned counsel for the respondents has filed a detailed Counter Reply wherein they have stated that a charge-sheet was issued to the applicant to which the applicant submitted his reply. On conclusion of the inquiry, the Enquiry Officer submitted his report to the disciplinary authority by fully proving the charge nos. 1 & 3 while charge no.2 could not be proved. The disciplinary authority on receipt of enquiry report submitted by the Enquiry officer issued a show cause vide letter dated 10.11.2004 by enclosing a copy of Enquiry report to which the applicant submitted his version vide letter dated

15.12.2004 and after considering the version of the applicant as well as the gravity of the charges leveled against him, the disciplinary authority vide order dated 25.1.2005 has imposed the punishment of dismissal from service upon the applicant. Being not satisfied, the applicant preferred an appeal to the appellate authority on 25.2.2005, which was decided vide order dated 24.3.2006 by modifying the punishment of dismissal from service into compulsory retirement by taking a lenient view. The respondents have further pleaded that the applicant has been afforded full opportunity to defend himself and thereafter the impugned orders have been passed. They also took a ground that the impugned orders are perfectly legal and valid as the same have been passed by the competent authority with due application of mind, hence no interference is called for and the O.A. is liable to be dismissed.

5. The applicant has filed Rejoinder Reply by negating the contentions so raised in the Counter Reply by reiterating the averments already advanced in the O.A.

6. We have heard the learned counsel for the parties at length and also perused the pleadings available on record.

7. The moot question involved in this O.A. is whether the punishment so imposed upon the applicant is commensurate with the gravity of the charges leveled against the applicant is in order or not? The facts of the case are not in dispute. Admittedly, a chargesheet has been issued to the applicant leveling three charges, out of which two charges namely charge nos. 1 & 3 have been found to be fully proved by the Enquiry officer, while the charge no.2 did not prove. After considering the gravity of the charges leveled against the applicant and also after considering the enquiry report submitted by the Enquiry Officer, the disciplinary authority imposed the punishment of dismissal from service vide order dated 25.1.2005. On appeal, the appellate authority converted the said punishment of dismissal from service into compulsory retirement vide order dated 24.3.2006 by taking a lenient view. It is not the case of the applicant that he has not been given reasonable opportunity to defend himself nor has he a case for not supplying the relied upon documents mentioned in the charge-sheet nor the applicant has been able to point out any lacuna or deficiency in the process of disciplinary proceedings

conducted against him. From the pleadings on record, we notice that a reasonable opportunity has been afforded to the applicant to defend himself in each and every stages and no rule or regulation has been violated relating to disciplinary proceedings in conducting the enquiry. The scope of judicial review in the matter of disciplinary proceedings is very narrow. The Court/Tribunal cannot go into the quantum of punishment as awarded by the disciplinary/appellate authority, as the case may be, unless and until the same is beyond the rules or disproportionate from the charges leveled against the applicant. In the instant case, we notice that the authorities concerned have carried out the entire exercise by adhering the rules on the subject and also by providing reasonable opportunity to the applicant to defend himself. The Hon'ble Supreme Court as well as Hon'ble High Court in catena of decisions have been pleased to hold that the Court/Tribunal cannot/should not interfere in the cases relating to disciplinary proceedings unless and until the same is malice and has been conducted without applying the rules on the subject and also without affording the reasonable opportunity to the applicant. Since the entire exercise has been carried out by the authorities concerned after due process of law and there is no ambiguity in the decision making process, we are not inclined to interfere in the impugned orders.

8. In view of the discussions made hereinabove, the O.A. has no merit and the same is accordingly dismissed. No costs.

(Devendra Chaudhry)
Member (A)

Girish/-

(Ms. Jasmine Ahmed)
Member (J)