

04.02.2009

OA No. 42/2009

Mr. Vinod Goyal, Counsel for applicant.

Heard learned counsel for the applicant.

For the reasons dictated separately, the OA is disposed of.


(B.L.KHATRI)
MEMBER (A)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 04th day of February, 2009

ORIGINAL APPLICATION NO. 42/2009

CORAM:

HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Pradeep Kumar Goyal son of Late Shri Mohan Lal Agrawal aged about 58 years, resident of III-168, A.G. Colony, Bajaj Nagar, Jaipur. Presently posted as Senior Accountant (under suspension) in the office of Accountant General (A&E) Rajasthan, Jaipur.

.....APPLICANT

(By Advocate: Mr. Vinod Goyal)

VERSUS

1. Union of India through the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.
2. The Principal Accountant General, (Civil Audit) Rajasthan, Janpath Near Statue Circle, Jaipur.
3. The Accountant General (Accounts & Entitlement) Rajasthan, Janpath Near Statue Circle, Jaipur.
4. Sr. Deputy/ Deputy Accountant General (Administration) & Disciplinary Authority, Office of the Accountant General, (Accounts & Entitlement) Rajasthan, Janpath Near Statue Circle, Jaipur.

.....RESPONDENTS

(By Advocate: -----)

ORDER (ORAL)

PER HON'BLE MR. B.L. KHATRI

This OA has been filed by the applicant for direction to the Appellate Authority for deciding the appeal dated 24.04.2008 (Annexure A/9). Through this OA, the applicant has sought for the following reliefs:-

- "(i) By an appropriate order or directions, the respondent no. 3 be directed to decide the appeal dated 24.04.2008 (Annexure A/9) filed under rule 23(iv) (b) of the Rules of 1965 against the ill conceived and extra jurisdiction charge sheet dated 20.10.2006 as early as possible. As such the

impugned action of the Appellate Authority in not deciding the appeal so far be declared as null and void.

- (ii) By an appropriate order or direction, if the Appellate Authority is not deciding the Appeal on the ground that no person must be a judge in his own case, then the Appeal should be directed to be referred to another equivalent authority and same be decided as per rule 27(3) of the Rules of 1965."

2. Brief facts of the case are that as directed by Sr. DAG (Admn) O/o the AG (A&E) Rajasthan, Jaipur, the services of the applicant were placed at the disposal of E.M. Section o/o the Pr. A.G. (Civil Audit) Rajasthan, Jaipur and later on withdrawn at their own. The applicant worked in the office of the Pr. A.G. (Civil Audit) Rajasthan, Jaipur during the period w.e.f. 03.08.2006 to 20.10.2006. The applicant was served with a charge sheet dated 20.10.2006 by the Sr. DAG (Admn) & Disciplinary Authority O/o the AG (A&E) Rajasthan, Jaipur for the events in between the period 03.08.2006 to 19.10.2006.

3. Learned counsel for the applicant submitted that extra jurisdictional charge sheet was issued to the applicant in utter violation of Rule 20 of the CCS (CCA) Rules, 1965 with mala fide intention at the behest of respondent no. 3. Rule 20 of the Rules, 1965 reads as under:-

"20(1) Where the services of the Government servant are lent by one department to another department or to a State Government or an authority subordinate thereto or to a local or other authority (hereinafter in this rule referred as "the borrowing authority"), the borrowing authority shall have powers of the Appointing Authority for the purpose of placing such Government servant under suspension and of the Disciplinary Authority for the purpose of conducting disciplinary proceedings against him....."

4. Learned counsel for the applicant has also referred to Rule 27(3) of the CCS (CCA) Rules, 1965, which reads as under:-

"27(3) In an appeal against any order specified in Rule 23 the appellate authority shall consider all the circumstances of the case and make such order as it may deem and equitable."



5. The applicant has filed the appeal u/s 23(iv) (b) of CCS (CCA) Rules, 1965, which reads as under:-

"23(iv) (b) interprets to his disadvantage the provisions of any such rule of agreement."

6. I have heard the learned counsel for the applicant. The plea of the applicant is that charge sheet dated 20.10.2006 (Annexure A/3) had been issued without jurisdiction as the same has been issued in violation of Rule 20 of the CCS (CCA) Rules, 1965. The disciplinary proceedings had been initiated by the office of AG (A&E) Rajasthan, Jaipur (lending authority) without any complaint from the office of the Principal Accountant General (Civil Audit) Rajasthan, Jaipur (Borrowing Authority) for the period during which the applicant was under the administrative control of office of the Principal Accountant General (Civil Audit) Rajasthan, Jaipur. Under such circumstances, the Appellate Authority has to decide the appeal of the applicant dated 24.04.2008 (Annexure A/9) having regard to the provisions contained in Rule 20 of the CCS (CCA) Rules, 1965 and to decide whether the charge sheet issued to the applicant falls under the head '*orders against which appeal lies*' under Section 23 (iv) (b) of the CCS (CCA) Rules, 1965. It is to be adjudged by the Appellate Authority whether under the facts mentioned by the applicant, it is a case where service of the government servant had been lended from one department to another department or whether it is a simple case of transfer of the applicant from one wing of the CAG/ Principal AG/ AG to another wing of the same department. Therefore, the Appellate Authority is directed to decide the appeal of the applicant only on this limited issue within a period of one month from the date of receipt of a copy of this order. If the applicant is aggrieved by the order to be passed by the Appellate Authority, he will be at liberty to approach this Tribunal again.

7. With these observations, the OA stands disposed of at admission stage with no order as to costs.


(B.L. MATRI)
MEMBER (A)