

Central Administrative Tribunal
Principal Bench
New Delhi

M.A.No.1527/2011 & M.A.No.2404/2011 in O.A.No.1488/2010
with
M.A.No.260/2013 in M.A.No.1527/2011 and M.A.No.2404/2011
and
M.A.No.1765/2017 in O.A.No.1488/2010

Order Reserved on: 20.11.2017
Order pronounced on 27.11.2017

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)

M.A.No.1527/2011, M.A.No.2404/2011 & M.A.No.1765/2017

E. Nagachandran

S/o Shri P. Eeaswaran
Deputy Director
Ministry of Corporate Affairs
Room No.417, `C'Wing, Shastri Bhawan
Dr. Rajendra Prasad Road, New Delhi-110 001.

Currently residing at:

R/o C-305, Pragati Vihar Hostel
Lodhi Colony
New Delhi – 110 003. Petitioner

(Applicant in person)

Versus

Shri D.K.Sharma,

[formerly] Under Secretary to the Government of India
Ministry of Statistics and Programme Implementaion
4th Floor, Sardar Patel Bhawan, Sansad Marg
New Delhi – 110 001. Respondent

(By Advocate: Dr. Ch. Shamsuddin Khan)

M.A.No.260/2013:

Tushar Ranjan Mohanty

Deputy Director General
Research and Publication Unit
Coordination and Publication Division
Central Statistics Office
Ministry of Statistics and Programme Implementation
Wing No.6, West Block No.8, R.K.Puram
New Delhi – 110 066.

Currently residing at:

G-31, HUDCO Place Extension,
New Delhi – 110 049. .. as Intervener in MAs 1527 & 2404/2011

O R D E R

By V. Ajay Kumar, Member (J):

The applicant, a direct recruit officer of the Indian Statistical Service of 1999 batch, filed the OA No.1488/2010 challenging the Order dated 04.08.2009 whereby he was placed under suspension on the ground that disciplinary proceedings are contemplated against him and orders dated 30.10.2009, 02.02.2010 and 27.04.2010 whereby his suspension was extended and/or any further order extending his suspension thereafter.

2. This Tribunal, after hearing both sides, vide its elaborate Order dated 25.10.2010, disposed of the OA as under:

"14. In view of above, since applicant was stated to be indulging in indiscipline, we find no illegality in the order dated 04.08.2009 of suspension because the allegations were

serious and it was necessary to suspend him in order to maintain decorum in the office.

15. It is strenuously argued by the applicant that his continued suspension is bad in law because ultimately applicant was imposed only a minor penalty of censure. This averment is factually incorrect because perusal of the record shows applicant was imposed this punishment for another misconduct while applicant was under suspension because he had written a letter to language for which memorandum under Rule 16 was issued to the applicant. In which penalty of censure was issued vide order dated 13/14.05.2010 (page 219), otherwise the grounds on which applicant was suspended are under process for issuance of major penalty charge sheet under Rule 14 of CCS (CCA) Rules, 1965, therefore, it is wrong to suggest that ultimately applicant had only been imposed a minor penalty.

16. Though there has been some delay in the process but it has to be kept in mind that applicant was posted at Hyderabad when he was suspended. All the papers relating to the allegations were at Hyderabad. The office at Hyderabad was directed to send all the supporting documents to the Ministry. After receiving the documents, draft charge sheet was prepared and it was decided on 19.10.2009 to send the case to CVC for first stage advice. However, on scrutiny, it was found that some annexures were not correct and some query was raised. The case was then sent to the CVO for seeking first stage advice from CVC. It was got approved from the competent authority on 4.11.2009. At this stage some information was sought by the CVO and the draft charge sheet was amended as required. The file was finally sent to the CVC for its first stage advice on 12.07.2010, which was followed by reminder dated 14.09.2010 (page 215) but respondents have not yet received the advice from the CVC.

17. From above, it is clear that respondents have already prepared draft charge sheet under Rule 14 of the CCS (CCA) Rules, 1965 which has been sent to the CVC for seeking their first stage advice, therefore, it cannot be stated that applicant is kept under continued suspension without any justification. It is not a case where no action was being taken after putting him under suspension but the file was moving for completing the process. It is correct that in the instructions it is mentioned that charge sheet should be served with 6 months but if due to some reasons it is not issued within the stipulated period, it will not make the suspension bad in law specially when applicant's case was considered by the Review Committee from time to time and his suspension was continued as per the recommendations of the Committee. In fact, after draft charge sheet was prepared and sent to the CVC, applicant's suspension has been revoked vide order dated 13.8.2010 (page 216) and he has been given posting order also on 18.8.2010, wherein period of 13.08.2010 to 18.08.2010 has been treated as 'compulsory wait' for the purpose of drawing salary which shows the bona fides of the department.

18. In view of above, it cannot be stated that applicant was suspended due to any malice or his continued suspension was without any valid reason. We, therefore, find no good ground to interfere in this case. However, before we part, we would like to direct the respondents to issue the

charge sheet at the earliest, i.e., within 4 weeks so that applicant may defend himself and matter may be taken to a logical conclusion.

19. With the above direction, this OA stands disposed of. No order as to costs."

3. MA No.3029/2010, filed in OA No.1488/2010, was dismissed on 02.12.2010 as under:

"M.A. has been filed for certain clarification and also seeking direction that since the directions given in the O.A. have not been complied with, the departmental enquiry has abated. We find no merit whatsoever in the Misc. Application. The judgment of this Tribunal is very clear and needs no clarification and we cannot give any specific direction in the M.A. for abatement of the departmental enquiry. The M.A. is dismissed."

4. MA 3276/2010, filed by the respondents in OA No1488/2010, was disposed of on 24.02.2011, as under:

"M.A.3276/2010

An application was filed on 21.12.2010 for extension of two months time for implementing the directions of this Tribunal. Since the time asked for is already over, MA is infructuous. Disposed of accordingly."

5. Thereafter, the applicant filed present MA No.1527/2011 in OA No.1488/2010, which was though dismissed for default on 02.06.2011 but was restored later, seeking the following relief:

"(i) to allow the present Miscellaneous Application;

(ii) make such written complaint to the Competent Criminal Court against the Respondent in terms of Section 195 of the Code of Criminal Procedure, 1973;

or alternative,

(iii) pass appropriate orders enabling the Applicant to move the Competent Criminal Court against the Respondent to effectively protect his rights and defend his honour;

(iv) to issue any such and further order/direction this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of this case; and

(v) to allow exemplary costs of this Application throughout,"

6. The applicant filed another MA No.2404/2011 in OA No.1488/2010, seeking an identical relief which reads as under:

- "(i) to allow the present Miscellaneous Application;
- (ii) make such written complaint to the Competent Criminal Court against the Respondent in terms of Section 195 of the Code of Criminal Procedure, 1973;

or alternative,

- (iii) pass appropriate orders enabling the Applicant to move the Competent Criminal Court against the Respondent to effectively protect his rights and defend his honour;
- (iv) to issue any such and further order/direction this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of this case; and
- (v) to allow exemplary costs of this Application throughout,"

7. Heard the applicant in person and Dr. Ch. Shamsuddin Khan, the learned counsel for the respondents, and Shri Tushar Ranjan Mohanty, the applicant in MA 260/2013 in MA 1527/2011 and M.A.No.2404/2011 in OA No.1488/2010, seeking intervention, and perused the pleadings on record.

8. The case of the applicant, in short, is that the respondents by filing wrong affidavits and by misleading this Tribunal and by committing perjury made this Tribunal to pass a wrong order in OA No.1488/2010. But the applicant failed to state that if the Orders of this Tribunal in OA No.1488/2010 were against to law and facts and obtained by the respondents by filing wrong affidavits and by misleading the Court, why he has not preferred any Writ Petition before the Hon'ble High Court questioning the orders in OA No.1488/2010, in the first instance. Having allowed the Order dated 15.10.2010, in OA No.1488/2010, to attain finality, the applicant

cannot raise any objection either on the affidavits filed by the respondents or on the Orders of this Tribunal, at this stage.

9. In the circumstances, we do not find any merit in both the MA No(s) 1527/2011 and 2404/2011 in OA No.1488/2010, and accordingly, the same are dismissed.

10. In view of the aforesaid orders, pending MAs, viz., MA No.1765/2017 and MA No.260/2013 are accordingly stand dismissed.

(Nita Chowdhury)
Member (A)

(V. Ajay Kumar)
Member (J)

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