

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA NO.3558/2014

Order reserved on 26.10.2017
Order pronounced on 27.11.2017

HON'BLE MR. RAJ VIR SHARMA, MEMBER (J)
HON'BLE MS. PRAVEEN MAHAJAN, MEMBER (A)

G.C. Sardana,
Aged about 57 years,
Designation 'Clerk',
S/o Late Shri C.R. Sardana,
R/o 15/70, Geeta Colony,
Delhi-110031.

...Applicant

(By advocate: Mr. Yogendra Kumar Tyagi for Mr. Siddarth Joshi)

VERSUS

1. Govt. of NCT of Delhi
through the Secretary,
Land & Building Department,
B-Block, Vikas Bhawan,
New Delhi.
2. Pr. Secretary (L&B),
Land & Building Department,
B-Block, Vikas Bhawan,
New Delhi.
3. Chief Secretary,
Govt. of NCT of Delhi,
5th Level, A-Wing,
Delhi Secretariat,
New Delhi.
4. Education Department
through the Director (Education),
Delhi Old Secretariat,
New Delhi.

...Respondents

(By advocate: Mr. Vijay Pandita)

:ORDER:**HON'BLE MS. PRAVEEN MAHAJAN, MEMBER (A):**

The current OA has been filed by the applicant seeking *inter alia* the following reliefs:-

- "i. Quash/set aside the Impugned Order bearing No.F5(46)2013/L&B/Vig./6824-26 dated 15.07.2014 (Annexure A-1) passed by the Appellate Authority/Respondent No.3, and/or
- ii. Quash/set aside the Impugned Order bearing No. No.F5(46)2013/L&B/Vig. Dated 01.05.2014 (Annexure A-2) passed by the Disciplinary Authority/Respondent No.2 and/or
- iii. Quash/set aside the Impugned Memorandum bearing No. No.F5(46)2013/L&B/Vig./19447 dated 27.02.2014 (Annexure A-3) issued by the Disciplinary Authority; and/or
- iv. Quash/set aside the impugned order bearing No. No.F5(46)2013/L&B/Vig./9831-9639 dated 27.08.2014 (Annexure A-10) issued by the Disciplinary Authority."

2. The facts of the case in brief are that the applicant applied for earned leave w.e.f. 12.08.2013 to 16.08.2013 and proceeded for Amarnath Yatra on 09.08.2013 without taking prior approval of the competent authority to leave the station. On 21.08.2013, the applicant was placed under suspension for this misconduct. He was served with a memorandum of explanation on 27.02.2014. The statement of charge framed against the applicant is reproduced as under:-

(I) Sh. G.C. Sardana, Head Clerk while working in LA branch of Land & Building Department, applied for

earned leave w.e.f. 12.08.2013 to 16.08.2013 on the ground that no serious important matter was pending with him and proceeded for Amarnath Yatra on 09.08.2013 without taking prior approval of the Competent Authority to leave the station.

Deputy Secretary (Land Acquisition) vide her note dated 13-08-2013 has informed to Additional Secretary (Land & Building) that Sh. G.C. Sardana had applied for earned leaves w.e.f. 12-08-2013 without station leave permission.

It is further stated by her that he left the station without completing most urgent work regarding 40 religious structures. All the staff including revenue officials came on 10-08-2013 to complete the said work but Sh. Sardana did not come and informed that he had moved from Delhi by road, as his tickets from airlines were not confirmed hence he left for Amarnath by road. She had requested to enquire into the matter and take an appropriate action.

Thereafter matter was examined in the Administration Branch and it was observed that the official did not mention/asked for permission to leave the station in his application. The official in the column "Nature and period of leave" mentioned for leave (E.L.) from 12-08-2013 to 16-08-2013 but as per report of Deputy Secretary (LA) Sh. Sardana left the station on 10-08-2013 without prior permission. And while calling him for important work the official informed the Deputy Secretary (LA) that he has already left the station. Such the official left the station without permission w.e.f. 10.08.2013.

Additional Secretary (L&B) vide his Note dated 14.08.2013 brought to the notice of Pr. Secretary (L&B) that the status of 40 religious structures had been prepared by the Land Acquisition branch, L&B and was handed over to him to attend the meeting dated 23.07.2013. The status report had inconsistencies. It was proposed to initiate inquiry against Sh. G.C. Sardana, Head Clerk for giving incorrect information and misconduct on 40 religious structures for :-

1. Deliberately making misleading and inconsistent report without referring records truthfully.
2. No sincere efforts were made to accord priority to the matter where Chief Secretary himself was made personally answerable before the Hon'ble High Court of Delhi and the directions

of Additional Secretary (L&B) were never complied to reflect the factual position as per records.

Earlier also the official had failed to comply the office order of Deputy Secretary (LA) vide dated 28.06.2013 by not attending the office on 29.06.2013 for preparing report on religious structures and clearing the pendency of his seat.

In view of the facts stated above, it is evident that the said Sh. G.C. Sardana, Head Clerk has failed to maintain devotion to duty by not reporting to his senior even on written order, leaving the station without taking prior permission and acted in a discourteous manner while performing his official duties and duping higher authorities by suppressing the facts regarding matter of 40 religious structures.

Thus, the said Sh. G.C. Sardana, Head Clerk has committed misconduct of dereliction of duty and failed to maintain devotion to duty and exhibited conduct unbecoming of a Government servant thereby violating Rule 3 of CCS (Conduct) Rules, 1964."

3. In his reply dated 07.04.2014, the applicant has submitted that as per rules, the earned leave has to be applied 15 days prior to proceeding on leave which condition he adhered to. Earlier, he had applied for earned leave w.e.f. 05.08.2013 to 16.08.2013 but later due to official influence he changed it from 12.08.2013 to 16.08.2013. He stated that the lapse of applying for station leave could have been easily rectified, had the dealing clerk asked him to do so. As regards the allegation of not completing the material works relating to 40 religious structures, the applicant has submitted that he worked on this project till 9 p.m. in his office and

if the information was found to be incorrect in any way, then his Supervisory Officers were equally accountable and could have corrected his reports, if they found it faulty.

4. Resisting the applicant's contention, the respondents have submitted in the counter that the applicant did not apply for station leave as required under the Civil Services Leave Rules and proceeded on leave in violation of Rule-3 of CCS (Conduct) Rules, 1964. Hence, the applicant has been charge-sheeted for misconduct unbecoming of the Government servant. The penalty imposed upon him vide order dated 01.05.2014 by Respondent No.2 i.e. the Disciplinary Authority and confirmed by Respondent No.3 i.e. the Appellate Authority, is very much in order, since the charges against the applicant are of a serious nature.

5. We have heard the rival contentions of both the learned counsels and perused the record carefully.

6. As far as the charge (I) against the applicant is concerned, it is not disputed that he had applied for earned leave on 17.07.2013, i.e. almost 3 to 4 weeks prior to the date when he wished to avail of earned leave.

However, it is admitted by the applicant that he had not applied for station leave. Undoubtedly, there has been a lapse on the part of the applicant in proceeding on leave without sanction from the Competent Authority. However, the lapse is not such, which would merit such harsh punishment as meted out to him in the impugned order.

7. The charge (II) against the applicant is that he gave incorrect information regarding 40 religious structures and no sincere efforts were made by him to accord priority to the matter where Chief Secretary himself was made personally answerable before the Hon'ble High Court of Delhi and that the direction of Additional Secretary (L&B) was not complied with. The applicant, in his reply, has pointed out that he made every effort to give the correct information but in case something was lacking, then his Supervisory Officers like Patwari, Kanungo, OS (LA) and DS (LA) etc. were equally accountable and could (should) have corrected the reports if they had gone through it and found them lacking in some respect. In his letter dated 07.04.2014, the applicant has clarified that he was posted as a head clerk and the information, which he received in the file

and through Revenue staff like Patwari, Kanuno, who are posted in LA Branch, was forwarded to OS (LA). The in-charge or OS (LA) were supposed to go through the information and correct or amend the same, if it contained any errors. This stand of the applicant is reasonable. He was apparently at the lowest rung in the hierarchy. It was as much a duty of his Supervisory Officers to check/ the veracity/ correctness of his report before forwarding it. The role of a senior is also to do some value addition to the report that he is a signatory to, if required. Be that as it may, here too, the mistake, if any, on part of the applicant appears to be bonafide and not deliberate.

8. Charge (III), is regarding not complying with the office order dated 28.06.2013 of Deputy Secretary (LA) of not attending the office on 29.06.2013 for preparing report on religious structures and clearing the pendency of his seat. In this context, the applicant has relied upon the reply of the respondents to his RTI query, which confirms, that there was no such office order available on record, directing the applicant to attend the office on 29.06.2013. Hence, this charge remains unsubstantiated. The allegations contained in Charge No.(III) of not

attending the office despite there being an office order to this effects has been explained convincingly by the applicant.

9. In view of the facts and circumstances of the case, we are convinced and satisfied with the explanation tendered by the applicant to the order dated 01.05.2014 of the Disciplinary Authority. The impugned order is a mere reiteration of the charges issued to him vide Memorandum dated 27.02.2014, followed by the penalty order. Even the Appellate Authority's order dated 15.07.2014, is not well reasoned or self speaking.

10. In view of the aforesaid discussions, the penalty of *"reduction to a lower stage, in the time scale of pay by one stage for a period of two years, without cumulative effect and not adversely affecting his pension"* imposed upon the applicant, vide order dated 01.05.2014 by Respondent No.2 appears to be extremely harsh, and not commensurate with the misconduct brought out in the aforesaid charge-sheet dated 27.02.2014. Even otherwise, the applicant seems to have a satisfactory service record and has not been made out to be a

careless or an indifferent worker in performance of his duties.

11. With the above observations, we quash and set aside the impugned orders dated 15.07.2014 and 01.05.2014 and direct the respondents to re-examine the case of the applicant and pass a fresh order as per law. The entire exercise should be completed within a period of three months from the date of receipt of a certified copy of this order.

12. The OA is disposed of. No costs.

(Praveen Mahajan)
Member (A)

(Raj Vir Sharma)
Member (J)

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