

**Central Administrative Tribunal
Principal Bench**

OA No.3126/2013

Reserved on : 09.09.2015
Pronounced on : 15.09.2015

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. P. K. Basu, Member (A)**

Dinesh Kumar Sangal
Shri Ratu Lal
159, Arjun Nagar,
Safdarjung Nagar,
New Delhi 110 029.

.... Applicants.

(By Advocate : Shri Asad Alvi)

Versus

North Delhi Municipal Corporation
Through the Commissioner,
Town Hall,
Delhi.

.... Respondents.

(By Advocate: Shri R. N. Singh)

: O R D E R :

P. K. Basu, Member (A) :

This OA has been filed by the applicant praying that the office order dated 25.07.2013 may be set aside and the decision of suspension taken by the review committee in its meeting on 28.05.2013 may be declared null and void

2. Learned counsel for the applicant submitted that during the year 2003 & 2004, two departmental proceedings for major penalty were commenced against the applicant vide RDA Nos.1/251/2003 and 1/132/2004. On 26.07.2007, the applicant submitted his resignation letter to the Municipal Corporation of

Delhi (MCD). Since he was facing a disciplinary proceeding, his request was not accepted. However, on vehement request of the applicant, his resignation was accepted by the competent authority w.e.f. 31.01.2008 subject to outcome of the aforesaid departmental proceedings. On the same date, i.e., 31.01.2008, when the applicant was relieved from MCD, he submitted withdrawal of resignation application through a letter which was rejected by the competent authority. The matter came before this Tribunal in TA No.297/2009 which was disposed of vide order dated 13.11.2009 with direction to the respondent-MCD to accept applicant's withdrawal application. Thereafter, the MCD allowed him to join his duty w.e.f. 31.01.2008 with all benefits. However, in another development, an FIR was lodged against the applicant for his prima facie act of forgery in issuing some fake office order for the benefit of his own promotion from the post of Junior Engineer (Civil) to Assistant Engineer (Civil) w.e.f. 19.10.2007.

3. In departmental proceeding No.1/251/2003, the applicant was awarded the penalty of reduction in pay in the present time scale of pay by two stages for a period of two years with cumulative effect. In departmental proceeding No.1/132/20004, he was exonerated.

4. The applicant was suspended vide office order dated 01.08.2012 with immediate effect. Thereafter, vide orders dated 22.11.2012, 22.02.2013, 28.05.2013, 06.09.2013, 19.12.2013,

03.03.2014, 08.05.2014 and 25.08.2014, his suspension was decided to be continued. However, in the suspension review committee meeting dated 22.02.2014 it was decided to reinstate the applicant in service pending departmental proceeding No.3/6/2013 and he was reinstated vide order dated 04.03.2015.

5. The short case of the applicant is that as per provisions of Rule 10 (7) of Central Civil Services (Classification, Control & Appeal) Rules, 1965, the suspension review committee has to review the suspension and communicate it to the employee suspended within a period of 90 days which has not been done by the respondents. Therefore, it is contended that since the extension of suspension was done beyond the period of 90 days, it should be treated as null and void and his whole suspension period should be treated as period spent on duty and he should be paid full salary for that period. In this regard, learned counsel for the applicant also placed reliance upon the order of this Tribunal in OA No.1975/2011 dated 03.01.2012 in the matter of ***Ishwar Singh vs. MCD & ors.***

6. Shri R. N. Singh, learned counsel for the respondents clarified that all the disciplinary actions including suspension are being taken by MCD under DMC Services (Control & Appeal) Regulations 1959. The applicant was placed under suspension vide office order No.ADC/Engg/HQ/NDMC/ 2012/ 155 dated 1.8.2012 with immediate effect under the provisions of

Regulations 5 (2) of DMC Services (Control & Appeal) Regulations 1959 as applicable to the officials/officers of the corporation. It is further submitted that vide Notification No.23/12/2003, sub rule 6 and 7 have been inserted in Rule 10 after sub-rule 5 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 which makes provisions for review of suspension order before expiry of ninety days from the date of the order of suspension and constitution of Review Committee. The Central Civil Services (Classification, Control & Appeal) Rules, 1965 are not adopted/applicable to officials/officers of the corporation. However, the MCD has its own service regulations vide which FR/SR, CCS (Temporary Services) Rules, CCS (Conduct) Rules have been adopted. To implement the above notification dated 23.12.2003, the Corporation vide Resolution No.313 dated 06.09.2014 (Annexure R-6) has resolved the amendments in Rule 5 of the DMC Services (Control & Appeal) Regulations 1959 by inserting Sub-Regulations 8 and 9. The amendment approved by the corporation was submitted to the Govt. of NCT of Delhi for notification in the official gazette. However, the amendments have not been notified till date. In the meantime to ensure the periodically review of suspension cases, a Suspension Review Committee had been constituted. It is thus clarified that the CCS (CCA) Rules, 1965 do not apply in the case of the applicant who is an employee of MCD and, therefore, the OA is fit to be dismissed.

7. We have heard learned counsel for the parties and perused the pleadings.

8. The applicant has also placed before us notice of NDMC dated 03.07.2015 regarding the applicant's suspension in which the last sentence states as follows:-

“This issued under CCS service rules.”

On the basis of this, it is contended on behalf of the applicant that the CCS (CCA) Rules, 1965 are applicable to a MCD employee as well. This argument of learned counsel for the applicant cannot be accepted as the CCS Services rules differs from CCS (CCA) Rules, 1965 and thus this notice dated 03.07.2015 does not in any way establish that CCS (CCA) Rules, 1965 are applicable to MCD employees.

9. From the above narration of facts, it becomes clear that the CCS (CCA) Rules, 1965 do not apply to the employees of MCD and since there is no 90 days limit in the MCD Rules, the claim of the applicant is not justified and the OA is fit to be dismissed. The OA is accordingly dismissed.

(P. K. Basu)
Member (J)

(V. Ajay Kumar)
Member (A)

/pj/