

**Central Administrative Tribunal
Principal Bench**

OA No.3368/2014

New Delhi, this the 29th day of November, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Manmohan Dubey, Aged 54 years,
Dy. Director (QA), DGS&D,
Department of Commerce (Supply Division),
New Delhi,
S/o Late Shri Kalika Prasad Dubey,
R/o J-10, Andrews Ganj Extension,
New Delhi.

...Applicant.

(By Advocate : Shri Kripa Shankar Prasad)

Versus

1. Union of India through,
Secretary,
Department of Commerce,
Udyog Bhawan,
New Delhi-110001.
2. Director General,
Directorate General of Supplies and Disposal,
Jeevan Tara Building,
5, Parliament Street,
New Delhi-110001.
3. Union Public Service Commission through,
Secretary Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi.

...Respondents

(By Advocate : Shri Rajinder Nischal
Shri R.V. Sinha with Shri Amit Sinha)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant was employed in the office of Director General of Supplies and Disposal (for short DGS&D). The CBI raided the premises of the office on 22.01.2004 and on the basis of the facts noticed therein, the applicant was arrested and proceedings were initiated against him by filing FIR No. RC-AC2 2004. The Court of Special Judge, CBI, Dwarka, convicted the applicant through judgment dated 22.12.2012, and imposed the sentence. Taking the same into account, the disciplinary authority passed an order in exercise of powers under Rule 19(i) of the CCS (CCA) Rules, 1965 (for short, the Rules), on 18.03.2014, dismissing the applicant from service. The same is challenged in this OA.

2. The applicant contends that aggrieved by the judgment of the Trial Court, he preferred a Criminal Appeal No.254/2013 before the Hon'ble High Court of Delhi and on 20.02.2013, an order was passed suspending the sentence. He submits that once the sentence was suspended by the Hon'ble High Court on 20.02.2013,

there was no justification for the disciplinary authority to pass an order, one year thereafter, dismissing him from service.

3. The respondents filed counter affidavit opposing the OA. It is submitted that though the sentence was suspended, the Criminal Appeal is still pending before the Hon'ble High Court and the impugned order was passed strictly, as per rules and in accordance with law.

4. We heard Shri Kripa Shankar Prasad, learned counsel for applicant and Shri Rajinder Nischal and Shri R.V. Sinha, learned counsel for respondents.

5. The Rule 19(i) of the Rules provides for imposition of the penalty on a Government servant without requirement of conducting disciplinary inquiry, in certain cases i.e. a) when an employee has been convicted in Court of Law, b) where the disciplinary authority is satisfied that it is not reasonably practicable to hold the inquiry and, c) where the security of State is involved. It is not in dispute that the applicant was convicted and sentenced by a Court for offences which incidentally are referable to the discharge of his duties.

6. It is no doubt true that the sentence was suspended in an Appeal preferred by the applicant. What becomes relevant for application of the Rule 19(i) is the conviction in the criminal case, which was very much in force when the order was passed and it continues to hold even as on today. Therefore no exception can be taken to the impugned order as the things stand today. It is a different matter if the appeal preferred by the applicant, is allowed and the conviction and sentence are set aside. In such an event, the applicant can approach the disciplinary authority with a proper representation.

7. We, therefore, dismiss the OA, leaving it open to the applicant to approach the disciplinary authority, in case, the conviction ordered against him by the Trial court is set aside by the Hon'ble High Court of Delhi.

There shall be no orders as to costs.

(Aradhana Johri)
Member (A)

(L. Narasimha Reddy)
Chairman

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