

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/021/00070/2017

Date of CAV : 25-09-2018
Date of Order : 23-10-2018

Between :

V. Ravinder S/o V. Sammi Reddy,
Aged : 46 yrs, Occ : Sr.Accountant,
O/o the Principal Accountant General (A&E),
AP & TS, Hyderabad, R/o Hyderabad.Applicant

AND

1. The Principal Accountant General (A&E),
Andhra Pradesh & Telangana, Hyderabad.
2. The Deputy Accountant General (Admn.),
O/o the Accountant General (A&E),
Andhra Pradesh & Telangana, Hyderabad. ...Respondents

Counsel for the Applicant: Mr. R. Mohanty

Counsel for the Respondents : Mr. V. Vinod Kumar, Sr. CGSC

CORAM :

THE HON'BLE MR.SWARUP KUMAR MISHRA, JUDICIAL MEMBER

(Order per Hon'ble Mr.Swarup Kumar Mishra, Judicial Member)

This application is filed under section 19 of the A.T. Act, 1985 to set aside the impugned punishment order No. AG (A&E)/AP & TS/CoC/DC-II/8-382/2016-17/163, dated 22.08.2016 of the Disciplinary authority and confirmed by Appellate authority's order dated 07.11.2016 as illegal, arbitrary, void in nature and contrary to Article 14 & 21 of the Constitution of India and direct the respondents to initiate departmental action against

accused, who paid fine of Rs.250/- to the criminal court, in conformation of criminal action on applicant U/s 323 of IPC; to buildup confidence among the employees of AG's office and pass such other order or further order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and oblige.

2. The brief facts of the case are that the applicant was appointed in the Respondent's office on 14th August, 1992, as LDC under sports quota representing volley ball. As he is a good natured, sincere, honest and dedicated to work, recognized by his superiors and got promotions in regular intervals. The applicant was promoted as Accountant. The career progression was only due to his sheer hard work, which was always appreciated by the authorities and was promoted as Senior Accountant with effect from January, 2006 and was granted MACP in the year 2016.

3. The applicant represents Volley Ball Team of Accountant General, Andhra Pradesh and State of AP at National level. The applicant has been victimized and discriminated solely on the ground of his active participation in the sports and other extracurricular activities viz., sports, Fine Arts and having good relations with the society.

4. The applicant, as part of his duly, on 28.4.2016, at about 11.40 am, went to ground floor to collect " Ledger Cards of F.W case " from his section, three of his colleagues came across and physically attacked him and manhandled . The applicant immediately rushed to DAG (Admn) and

reported the matter in writing and with the permission of the DAG, rushed to Police station and registered a case against the three persons with a request to save his life from the clutches of the three persons. Thereafter the Police took the applicant to the Osmania General Hospital and the duly Medical Officer Certified the injuries on face and chest and other places of the body. In the mean time Mr. K. Chandrabasa (one of colleague who had beaten of the applicant) was arrested on 28.04.2016 and was released on bail by the Saifabad Police on the same day itself after registering petty case under section 70.B. CP Act and 323 of IPC. On the next day ie on 29.4.2016, Police produced the accused Mr. K. Chandrabasa, before XI Spl. MM Court, Nampally, Hyderabad, where the charged official being accused, obliged the act of the offence as recorded in the Charge Sheet filed by police and paid Rs.250/- vide the Receipt No.1988959, dated 29.04.2016, issued by XI Spl. Metropolitan Sessions Judge, Hyderabad.

5. The further submits that, after the action of police on accused Mr. K. Chandrabasa, applicant informed the events to the Deputy Accountant General and Disciplinary Authority (Admn), about his payment of fine of Rs.250/- , after deposing the guilt before Metropolitan Sessions Judge and requested to take necessary action under Rules, against the accused and two others who were participated in the act of committing the crime. As the matter stood thus, a charge memo dated 23.06.2016 was issued to the applicant, calling explanation, based on a complaint by his counterpart Sri K. Chandrabasa, alleged that, the applicant accosted and abused in the name of his caste at 11.00 AM, on 28.04.2016, and directed the applicant to explain, as to why action should not be taken for abusing Sri K. Chandrabasa

in the name of his caste.

6. The applicant further submits that, he has submitted a detailed reply to the charge sheet and requested the Disciplinary Authority to drop the memorandum of charge vide reply dated 25.07.2016. The DAG (A) and Disciplinary Authority had not satisfied with the reply of the applicant and awarded the “penalty of withholding of one increment for a period of one year without cumulative effect and not adversely affecting his pension,” vide Office Order No.07 dated 22.08.2016 and also warned that any repetition of such behaviour in future, would be viewed seriously and stringent action would be taken against him under rules.

7. The applicant preferred an appeal to the Principal Accountant General and Appellate Authority on 19-09-2016, explaining the circumstances leading to impose the punishment of stoppage of one increment for a period of one year without cumulative effect even though there was no complaint against applicant and no fault on part of the applicant. Treating the explanation of Sri K. Chandrashekhara, as a complaint, and issued the charge sheet and without considering the representations of the applicant positively and imposing penalty is bad in law and violation of Natural Justice.

8. It is averred in the application that, the Appellate Authority did not consider the representation of the applicant in its proper prospective and rejected the appeal vide 1st respondent's order No.PAG (A&E)/AP &

TS/CoC/DC-II/2016-17/372, dated 07.11.2016 and confirmed the penalty, imposed on the applicant. The appellate authority miserably failed to appreciate both the facts of the case and procedural irregularities committed by disciplinary authority. The entire case against the applicant is a case of absolute no evidence and no complaint and as such the whole proceedings are vitiated and are bad in law and are arbitrary in nature and as such the entire proceedings initiated against the applicant deserved to be quashed and set aside. Even though there was no complaint against the applicant, the disciplinary authority shown over enthusiasm and issued the Charge memo and framed charges basing on the reply of Sri K. Chandrasa against the applicant is bad in law and violation of Article 14 and 21 of the Constitution of India.

9. It is further averred in the application that, this was not first time that the three persons making attack on the applicant, they used to exchange words in aggression mood now and then, since they are also from sports quota, whereas, Mr. Ravinder-II is ahead of them in all respects in representing the Department and Central Government and State Government in various tournaments and other cultural activities, besides volley ball. The Disciplinary Authority and the appellate authority have acted purely on prejudice and fancies to somehow punish the applicant and the entire proceedings exhibits lack of judicious approach and reasonableness. Hence this application.

10. Respondents have filed reply statement stating that the Disciplinary

Authority imposed the penalty on the applicant as the applicant provoked Sri K. Chandrasahas into an altercation and getting into a brawl within him within the office premises and during office hours and thereby violated official decency and decorum.

11. The Disciplinary Authority has called for explanations from the aforesaid three employees for their alleged misconduct in the office premises and also issued a Memo to Sri K. Chandrasahas. In his statement of defence, Sri K. Chandrasahas explained the sequence of events and stated that the applicant had abused him in the name of caste in the presence of Sri P. Hanumantha Reddy and Sri M. Venugopala Rao due to which he had to act violently in the said incident. Further, he has pleaded that he has neither made a complaint with the Administration nor with the police due to his obedience to the oral advice of the Deputy Accountant General (Admn) and the applicant was his colleague. Necessary disciplinary action has been initiated against Sri K. Chandrasahas also for his involvement in the case and he was awarded punishment of withholding of one increment for a period of one year without cumulative effect vide OO No.6, dated 22.08.2016.

12. The Respondents further state that, on careful examination of the charge memo issued to the applicant, his reply and other material available, the Disciplinary Authority concluded that the applicant resorted to unruly behaviour of provoking a fellow employee by abusing in the name of caste, thus the applicant himself indulged in grave misconduct. By his act, the applicant brought disrepute to the office and behaved in a manner of

unbecoming of a Government Servant and violated the provisions of CCS (Conduct) Rules, 1964. The Disciplinary Authority has therefore imposed a penalty of withholding of one increment of a period of one year without cumulative effect not adversely affecting pension.

13. The appellate authority has considered the case in its entirety and concluded that the grounds of appeal against the penalty are devoid of merit as such the appeal was not maintainable. After answering all the issues raised by the applicant, the Appellate Authority has passed detailed order. Minor penalty was awarded to the applicant strictly going by the provisions of CCS (CCA) Rules, 1965 and therefore, it does not warrant interference.

14. The statement of defence of Sri K. Chandrasahas explaining reasons for his provocation and commissioning of his violent act on that day which was resultant of abusing him by name of caste by the applicant and this was taken into cognizance for initiating disciplinary proceedings by the Competent Authority. Accordingly Respondents pray for dismissal of the OA and also for vacation of interim order.

15. We have heard Mr. R. Mohanty, learned counsel for the applicant and Mr. V. Vinod Kumar, learned Sr Central Govt., Standing Counsel for Respondents.

16. It is seen that the Disciplinary Authority while imposing the

punishment as per order dated 22.8.2016 vide Annexure A-I having come to a finding that due to the unlawful behaviour and trying to provoke and beat the co-employee and also by abusing the said employee viz., Mr. K. Chandrasa in the name of cast, the applicant had indulged himself in gave misconduct. Accordingly the Disciplinary Authority imposed the punishment in question. The Appellate Authority while passing the order dated 7.11.2016 has also mentioned that the applicant had used abusive language against Mr. K. Chandrasa. The material on record clearly reveal that Mr. K. Chandrasa is Christian by religion and does not belong to any particular cast. There is also no material to show the exact abusive words used by the applicant. Therefore there is absolutely no material to show that the applicant has used any abusive words against Mr. K. Chandrasa in the name of caste.

17. While calling for explanation from the applicant, the Disciplinary Authority vide his order dated 23.06.2016 had directed the applicant to explain as to why action should not be taken against him for abusing Mr.K.Chandrasa, Sr.Accountant in the name of cast. Therefore it is abundantly clear that no explanation was called for from the applicant for any action of provoking and trying to manhandle the said Sri K. Chandrasa. As no such explanation was called for specifically on that point, the authorities could not have legally imposed any punishment on such allegations subsequently used against the applicant, while passing the order dated 22.08.2016 since it would also violate the principles of natural justice by not giving due and reasonable opportunity to the applicant to

putforth his case before the authorities on the point on which no explanation was called for from him.

18. In the circumstances, this Tribunal finds that the order of imposing punishment of withholding one increment for a period of one year without cumulative effect, as imposed on the applicant, is without application of mind, arbitrary and illegal.

19. Therefore this Tribunal has no hesitation to set aside the said order. Accordingly the order of imposing the punishment vide order dated 22.08.2016 and confirmed by the Appellate Authority vide order dated 15.07.2016 are set aside. The applicant is entitled to all consequential service and financial benefits. Accordingly Original Application is allowed.

20. No order as to costs.

(SWARUP KUMAR MISHRA)
JUDICIAL MEMBER

Dated : 23rd October, 2018.

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