



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/144/2017

Date of order : 28.3.2017

Present: Hon'ble Ms. Jaya Das Gupta, Administrative Member

RABI SHANKAR SHAW

VS

UNION OF INDIA & ORS.
(M/O/DEFENCE)

For the applicant : Mr.A.K.Gayen, counsel
Ms. A.A.Gayen, counsel
Ms.J.Paul, counsel

For the respondents : Mr.S.Paul, counsel

O R D E R (ORAL)

Both sides present.

2. The applicant in this case has approached CAT under Section 19 of the A.T.Act, 1985, seeing the following reliefs :

- a) Direction be made upon the respondents to forthwith exonerate from all the charges levelled against the applicant along with quashing the whole disciplinary proceedings as well as the decisions of the Appellate Authority dated 19.7.2016.
- b) Direction be made upon the respondents to forthwith recall, rescind and/or withdraw the order of imposition of penalty dated 28.9.2015 being annexure A/9 of this application.
- c) Direction be made upon the concerned Appellate Authority to consider and dispose of the said appeal dated 30.10.15 and also the reminder there on dated 29.1.16 and 9.5.16 and forward the decision thereof to the applicant forthwith without giving any weightage and/or gravity of the decision dated 19.7.2016 passed by the Appellate Authority.
- d) Pass such other order or orders, direction or directions be made as to Your Lordships be made fit and proper.

3. A charge sheet was issued on 4.3.2015 in which three articles of charges were imposed on the applicant as below :

"Statement of Article of Charges framed against Shri Rabi Shankar Shaw, Durwan/Security Office, Per. No. 601827 of Gun & Shell Factory, Cossipore, Kolkata-2.

ARTICLE OF CHARGE - I

That Shri Rabi Shankar Shaw, Durwan/Security Office, Per. No. 601827 of Gun & Shell Factory, Cossipore, Kolkata - 2 is charged with gross misconduct of unauthorizedly missing from the place of duty which tantamount to gross negligence and lack of devotion to Govt. duty and

conduct unbecoming of a Govt. servant in violation of Rules-3(1)(ii) and 3 (1)(iii) of the Central Civil Services (Conduct) Rules, 1964.

ARTICLE OF CHARGE - II

That Shri Rabi Shankar Shaw, Durwan/Security Office, Per. No. 601827 of Gun & Shell Factory, Cossipore, Kolkata - 2 is charged with gross misconduct of presenting himself unauthorizedly in official uniform at Cossipore Police Station, Kolkata, leaving his working place which tantamount to gross indiscipline and conduct unbecoming of a Govt. servant in violation of Rule 3(1)(ii) and 3 (1)(iii) of the Central Civil Services (Conduct) Rules, 1964.

ARTICLE OF CHARGE - III

Statement of imputation of Misconduct or Misbehaviour in support of the Articles of Charges framed against Shri Rabi Shankar Shaw, Durwan/Security Office, Per.No. 601827 of Gun & Shell Factory, Cossipore, Kolkata-2.

4. After a full enquiry a penalty order was imposed on the applicant. The penalty order imposed on 28.9.2015 ²²⁷ which is extracted below :

ORDER

No.1142/RSS/SO/DISC
GOVERNMENT OF INDIA
MINISTRY OF DEFENCE
GUN & SHELL FACTORY
COSSIPORE, KOLKATA - 2

Dated : 28.9.2015

Ref : Charge Memorandum No. 1142/RSS/SO/DISC dated 4.3.2016

The undersigned has carefully considered the facts of the instant disciplinary case and the representation dated 4.9.2015 submitted by Shri Rabi Shankar Shaw, Durwan, Security Office, Per No. 601827. After careful consideration and dispassionate study of the merit of the case in the light of the relevant rules, the undersigned has come to the conclusion that Shri Rabi Shankar Shaw, Durwan, Security Office, Per No. 601827 is guilty of the charges i.e. (i) unauthorizedly missing from the place of duty and (ii) presenting himself unauthorizedly in official uniform at Cossipore Police Station, Kolkata leaving his working place, as framed against him vide Charge Memorandum under reference. Therefore, the undersigned, in exercise of powers conferred upon him under the provisions of the CCS (CCA) Rules, 1965, imposes upon Shri Rabi Shankar Shaw, Durwan, Security Office, Per No. 601827 the penalty of **"Reduction of pay by one stage (equivalent to the amount of one increment of pay earned immediately preceding imposition of this penalty) for a period of one year"** with further direction that **"the said Shri Shaw will not earn his increment of pay during the currency of the penalty and it will have the effect of postponing his future increments of pay also."**

Receipt of this order should be acknowledged.

(T.V.RAO)
SR. GENERAL MANAGER.

5. The applicant made a statutory appeal on 30.10.2015 against imposition of such penalty order. The Appellate Authority considered the appeal and came to the conclusion that the appeal dated 30.10.2015 is found to be devoid of merit and the appeal was accordingly rejected. The detailed appellate order was dated 12.7.2016.

6. Against such rejection of his appeal the applicant has approached CAT and filed the case on 2.2.2017 seeking the reliefs which are mentioned above.

7. The applicant is governed by CCS (CCA) Rules and further scope of redressal of grievance is available with the revisionary authority. Under Section 20 of the A.T. Act which reads as under, the applicant has to ordinarily exhaust all remedies before approaching CAT :

"20. Applications not to be admitted unless other remedies exhausted.—

(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,—

(a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.

(3) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial.

Therefore the applicant should have approached CAT after exhausting all remedies which are available to him by law.

8. Accordingly with the consent of both sides, it is directed that the applicant shall approach the statutory revisionary authority.

petition within a week from getting the certified copy of this order and the revisionary authority shall dispose of such revision strictly as per rules. If the revision application has been made beyond the period mentioned by statute, such delay shall be condoned. The revision application should preferably disposed of within three months of getting the revision application by the applicant.

6. The OA is accordingly disposed of. No costs.

(JAYA DAS GUPTA)
MEMBER (A)

in