

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.1181/2018
MA 1319/2018

Reserved on: 30.04.2019
Pronounced on: 03.05.2019

Hon'ble Mr.S.N.Terdal, Member (J)
Hon'ble Mr. A.K.Bishnoi, Member (A)

Ganesh Kumar Jain,
S/o Late Sh.M.S.Jain,
Aged about 55 years, Post UDC,
R/o 1125, Laxmi Bai Nagar,
New Delhi-1100023.

... Applicant

(By Advocate: Mr. Rizwan)

VERSUS

1. Government of NCT of Delhi
Through Chief Secretary,
Delhi Sachivalaya, I.P. Estate,
New Delhi-110002.
2. N.C.C. Department,
Through HOD,
NCC Bhawan, Sector-19, Rohini,
New Delhi-10085.
3. Lieutenant Governor of Delhi,
Raj Niwas, Delhi-110054.
4. Secretary,
Directorate of Education,
Room No. 6, Old Secretariat,
Delhi-110054.

... Respondents

(By Advocate: Mr. Pradeep Kumar)

ORDER

Hon'ble Mr. S.N.Terdal, Member (J):

We have heard Mr. Rizwan, counsel for applicant and Mr. Pradeep Kumar, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicant has prayed for the following reliefs:

- "a) To declare the impugned orders dated 17.02.2016, 19.09.2016, 23.09.2017 & 04.01.2018 issued by the respondents as illegal, arbitrary, discriminatory, unreasonable, unjust, and inequitable and quash and set aside the same.
- b) Direct the respondents to reinstate the service of the applicant with all consequential benefits.
- c) Any other orders as this Hon'ble Tribunal may deem fit in matter in the light of aforesaid rules, instructions, and laws, etc. in the circumstances of the case."

3. The relevant facts of the case are that the applicant was convicted on a criminal charge under Section 7 and 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 by the Court of Shri B.R.Kedia, Special Judge-07 (Central) (PC Act cases of ACB, GNCTD), Tis Hazari Court in CC No. 01/13 Unique Case ID: 02401R0109592011. In view of the said conviction, the Disciplinary authority issued a Show Cause Notice (SCN) dated 23.04.2013 under Rule 19 (i) of the CCS (CCA) Rules, 1965, proposing a penalty of dismissal from service and 15 days time was given to the applicant to submit his reply. Accordingly the applicant submitted his reply to the above said SCN. After considering the grounds raised by the applicant in his reply dated 7.05.2013, the disciplinary authority passed the impugned order dated 17.02.2016 dismissing the applicant from service. The appeal filed by the applicant was also dismissed by the appellate authority vide order dated 19.09.2016 and the revision petition filed by the applicant was also dismissed by the Revisional Authority vide order dated 23.09.2017.

4. The counsel for the applicant vehemently and strenuously submitted that the SCN was issued in 2013, whereas the impugned order is passed in 2016 after a long delay of three years and having delayed and waited for three years, the respondents should have waited until his

pending appeal against the said conviction which is pending in the High Court is disposed of. He further submitted that the applicant has been dismissed without holding proper departmental enquiry. The counsel for the respondents equally vehemently and strenuously submitted that there is no illegality in the order passed by the disciplinary authority as the order has been passed after giving the applicant reasonable opportunity of making representation against the SCN and also the order is passed as per the provisions of Rule 19(i) of the CCS (CCA) Rules and as per the Government of India instructions thereon. The said rules and the Government of India instructions are extracted below:-

"19. Notwithstanding anything contained in Rule 14 to Rule 18-

- (i) whereby penalty is imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge, or

xxx

xxx

the Disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit:....."

and the Government of India's Instructions on the subject as issued vide G.I. M.H.A. O.M.No. F.43/57/64-AVD (III) dated 29.11.1996 as amended by GI. CS(Dept. of Per.) O.M.No.371/3/74-AVD(III) dated 19.9.1975 clearly provide as under:

"(i) In a case where a Govt. servant has been convicted in a court of law of an offence which is such as to render further retention in public service of a Govt. Servant prima facie undesirable, the Disciplinary Authority, may if it comes to the conclusion that an order with a view to imposing a penalty on the Government Servant on the ground of Conduct which had led to his conviction on a criminal charge should be issued, issue such an order without waiting or the period of filing an appeal, or, if an appeal has been filed, without waiting for the decision in the first court of appeal. Before such an order is passed, the Union Public Service Commission should be consulted where such consultation is necessary."

5. We have perused the above extracted rules and the Government of India's instructions. In view of the clear provisions of the rules when an

employee is convicted there is no need to hold the departmental enquiry as envisaged under Rule 14 to 18 and as the respondents have followed the said provision, we are of the view that there is no need to interfere with the impugned orders only because there is delay in issuing the show cause notice in 2013 and passing the final order by the disciplinary authority in 2016.

6. Accordingly, the OA is dismissed. No order as to costs.

(A.K.Bishnoi)
Member (A)

(S.N.Terdal)
Member (J)

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