

**Central Administrative Tribunal
Principal Bench**

OA No.3762/2018

New Delhi, this the 23rd day of January, 2019

**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman
Hon'ble Sh. Mohd. Jamshed, Member (A)**

Mr. Joshil K. Abraham
Assistant Professor (English)
Group-A Gazetted Officer
S/o Abraham Kaduthody
R/o E-4, G B Pant Polytechnic
Old Campus, Okhla Phase-III
Delhi – 110020.

... Applicant

(By: Applicant in person)

Vs.

1. Govt. of NCT of Delhi
Through the Chief Secretary
A-Wing, 5th Level, Delhi Secretariat
I.P. Estate, New Delhi-110002.
2. Directorate of Training and Technical
Education(DTTE)
Through its Secretary
Near T.V. Tower, Pitampura
New Delhi-110088.
3. GB Pant Government Engineering
College (GBPEC)
Through its Principal
GB Pant Engineering College
Okhla Phase-III
Delhi-110020.

...Respondents

(By Advocate: Ms. Harvinder Oberoi)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

The applicant was employed as an Assistant Professor in the Directorate of Training and Technical Education, GNCTD. Disciplinary proceedings were initiated against him by issuing a charge memo dated 12.09.2017.

2. It was alleged that the applicant has indulged in acts of misconduct, such as threatening to undergo hunger strike and Dharna, giving unauthorized interviews to TV channels and the like.

3. Through an order dated 23.02.2018, he was placed under suspension. The order of suspension was extended for a further period of another 90 days on 18.05.2018 and it was communicated to the applicant on 01.06.2018. The OA is filed challenging the charge memo dated 23.02.2018 and a prayer is also made for reinstatement. In other words, he challenges the order of suspension also.

4. The applicant who argued the case in person has raised several contentions touching on the legality and

validity of the charge memo as well as the order of suspension.

5. The respondents filed a counter affidavit opposing the OA. It is stated that the charge memo was issued by the competent authority duly indicating the acts of misconduct on the part of the applicant and that the order of suspension was issued since the applicant continued the acts even after initiation of disciplinary proceedings. It is also stated that the order of suspension was extended by the competent authority in accordance with the relevant rules.

6. We heard the applicant who argued the case in person and Ms. Harvinder Oberoi, learned counsel for the respondents.

7. The articles of charge framed against the applicant reads as under:-

"ARTICLE-I

That the said Sh. Joshil K. Abraham, Assistant Professor, while working in G.B.Pant Engineering College, Govt. of NCT of Delhi during the year 2017, committed gross misconduct in as much as he incited the students of the college to go on strike and dharna in the college premises, spoiling the academic atmosphere in the college.

By the above acts of omission & commission, the aforesaid Sh. Joshil K. Abraham, Assistant Professor, exhibited gross negligence and dereliction of duty, which is unbecoming of a Government servant, thereby violating the provisions of Rule 3 of CCS (Conduct) Rules, 1964.

ARTICLE-II

That the said Sh. Joshil K. Abraham, Assistant Professor, during the aforesaid period and while functioning in the aforesaid post, committed gross misconduct in as much as he communicated with a TV News Channel, unauthorizedly, and also publicly criticized the functioning of the Govt. of NCT of Delhi, TTE Department and College.

By the above acts of omission & commission, the aforesaid Sh. Joshil K. Abraham, Assistant Professor, exhibited gross negligence and dereliction of duty, which is unbecoming of a Government servant, thereby violating the provisions of Rule 3 read with rule 8, 9 & 11 of CCS (Conduct) Rules, 1964.

ARTICLE-III

That the said Sh. Joshil K. Abraham, Assistant Professor, during the aforesaid period and while functioning in the aforesaid post, committed gross misconduct in as much as he resorted to hunger strike in college premises and also invited the political leaders and interacted with them to inflate the issues relating to the functioning of TTE Department and College.

By the above acts of omission & commission, the aforesaid Sh. Joshil K. Abraham, Assistant Professor, exhibited gross negligence and dereliction of duty, which is unbecoming of a Government servant, thereby violating the

provisions of Rule 3 read with rule 5 & 7 of CCS (Conduct) Rules, 1964.”

8. The applicant pleaded that the charge memo was not issued by the competent authority. According to him, the charge memo was required to be approved by the Minister and since it was not approved, it cannot be sustainable in law. The respondents stated that under the relevant Service Regulations applicable to GNCTD, the competent authority is the Lt. Governor and his approval was obtained before issuing the charge sheet. Hence, the plea of the applicant cannot be accepted. Even on the other contentions we are not inclined to interfere with the charge memo.

9. Coming to the order of suspension, it is evident that long after the charge memo was issued, the applicant was placed under suspension.

10. In the counter affidavit it is stated that the suspension was resorted to, only because the applicant continued with his illegal activities even after initiation of disciplinary proceedings. No Government can afford to permit such indiscipline in its educational

institutions. The plea of the applicant that illegality crept into the order of suspension is equally untenable.

11. Across the Bar, the applicant states that he is getting married and henceforth would ensure that he would maintain good conduct without giving any scope for misconduct or disturbance in the institution. Out of sheer sympathy for the applicant, we show indulgence and set aside the order of suspension subject to certain conditions.

12. The OA is accordingly allowed in part directing that:-

- (a) The plea of the applicant against the charge memo is rejected and it shall be open to the respondents to proceed with the departmental inquiry.
- (b) The order of suspension dated 23.02.2018 as extended on 18.05.2018 is set aside subject to the condition that
 - (i) the applicant shall file a written undertaking before the Principal of the Institution to the effect that he would not resort to any act of indiscipline of the nature mentioned in the

charge memo or otherwise. The suspension shall cease to be operative on submitting that undertaking.

- (ii) If it is noticed that the applicant has again resorted to any acts of indiscipline, the concerned authority shall be at liberty to revive the suspension or to pass fresh order of suspension.

13. There shall be no order as to costs.

(Mohd.Jamshed)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

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