

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.2293/2019

Tuesday, this the 6th day of August 2019

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

Shashi Mohan s/o late Shri Lal Nim
Deputy Director (US)
Council for Advancement of People's
Action and Rural Technology (CAPART)
r/o LIG Flat No.193-A, Pocket 12
Jasola Vihar, New Delhi – 110 025
Age 52 years
Group A

..Applicant

(Mr. Rakesh Nautiyal, Advocate)

Versus

1. Union of India through
Ministry of Rural Development
Krishi Bhawan, New Delhi – 110 001
2. Executive Committee
Council for Advancement of People's Action
And Rural Technology (CAPART)
2nd floor, Zone 5 A (Core-C)
India Habitat Centre, Lodhi Road
New Delhi – 110 003
3. The Director General
Council for Advancement of People's Action
And Rural Technology (CAPART)
2nd floor, Zone 5 A (Core-C)
India Habitat Centre, Lodhi Road
New Delhi – 110 003
4. The Deputy Director (AED)
Council for Advancement of People's Action
And Rural Technology (CAPART)
2nd floor, Zone 5 A (Core-C)
India Habitat Centre, Lodhi Road
New Delhi – 110 003

..Respondents

O R D E R (ORAL)**Justice L. Narasimha Reddy:**

This is the second round of litigation by the applicant in his challenge to the charge memoranda dated 06.10.2017, 11.01.2019 and 21.02.2019. The applicant is working as Deputy Director in the Council for Advancement of People's Action and Rural Technology (CAPART), the 2nd respondent herein. Three separate charge sheets were issued to him by the Director General of CAPART, the 3rd respondent herein.

2. Earlier, he filed O.A. No.1143/2019 by raising two principal grounds. The first was that the Director General was holding a post on 'look after charge' basis and the second was that he was not delegated the power of the disciplinary authority. On a perusal of the records, the contention of the applicant, on both the counts, was rejected, through an order dated 09.04.2019. It was, however, made clear that in case the applicant is able to get hold of any material in support of his contention, it shall be open to him to take necessary steps in accordance with law.

3. In this O.A., the applicant contends that the Director General is only a delegatee of the Executive Committee of 2nd respondent and as per the clause 36 (c) of the Memorandum of Association of 2nd respondent, the Executive Committee can delegate its powers to the Chairman, Standing Committees,

Director General or any other officer, but the action taken by such authorities shall be subject to confirmation at the next meeting of the Executive Committee. The applicant contends that the 3rd respondent did not seek approval of his action as regards initiation of disciplinary proceedings or passing orders of suspension, much less it was approved.

4. The second contention is that the discharge of powers by the Director General is contrary to the law laid down by Hon'ble Supreme Court in **Union of India & others v. B.V. Gopinath**, (2014) 1 SCC 351.

5. We heard Mr. Rakesh Nautiyal, learned counsel for applicant at the stage of admission, at length.

6. In support of his contention, the applicant relies upon clause 36 (c) of the Memorandum of Association. It reads:

“c) The Executive Committee may, by resolution delegate such administrative, financial and other powers to its Chairman, Standing Committees, Director General or any other officer of the Society as it may consider necessary and proper subject, if deemed necessary, to the condition that action taken by them under the power so delegated, shall be subject to confirmation at the next meeting of the Executive Committee.”

7. This clause applies only when the powers are delegated. The Director General was conferred with the powers of disciplinary authority in the year 2004, through order dated 15.12.2004. There is no mention of delegation therein. The conferment of powers on the Director General is by way of

amendment. Even otherwise, the occasion for a delegatee to seek approval arises only when the action is taken. In the disciplinary proceedings, the action can be said to have been taken only when the proceedings are dropped or punishment is imposed. Therefore, the contention in this behalf cannot be accepted.

8. The second contention urged by the applicant is that the action taken by the 3rd respondent is not in accordance with the judgment of Supreme Court in **B.V. Gopinath's** case (*supra*). That was a case in which the Appointing Authority was Finance Minister and the various steps were being taken by an authority under him. The Supreme Court held that the approval of the Appointing Authority is necessary at the stages of initiation of disciplinary proceedings, framing of the charge sheet and imposition of punishment. In the instant case, the disciplinary authority himself is taking various steps. Therefore, the question for getting approval of any other authority does not arise.

9. We do not find any merit in this O.A. It is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

August 6, 2019
/sunil/