

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

M.A.No.694/2018
in
Original Application No.21/859/2017

Date of Order: 18.07.2019

Between:

Union of India & Others

... Applicants

AND

V. R.Balagopalan

.... Respondent

Counsel for the Applicants ... Mr.V. Vinod Kumar, Sr. CGSC.

Counsel for the Respondent ... Mr. K.R.K.V.Prasad

CORAM:

Hon;ble Mr. A.K.Patnaik, Member (Judl.)

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORDER (in MA)

2. The MA 694 /2018 in OA 859/2017 has been filed for vacation of the interim order issued by this Tribunal on 16.11.2017 restraining the respondents from evicting the applicant, in the OA, from the Govt. Quarter occupied by him.

3. Brief facts to be adumbrated are that the Motor Transport (MT) Section of the respondents organisation maintains a fleet of vehicles for transportation of guest speakers, faculty etc. Fuel for these vehicles is bought from M/s Filpoint petrol pump. Other than the Govt. vehicles, additional vehicles are also hired from M/s M.M. Travels agency to meet the transport demand as and when it arises. Based on allegations in regard to the working of the MT Section an internal inquiry was conducted wherein

it came to light that a sum of Rs.63,48,530/- was claimed excess by M/s M.M. Travel agency by inflating the time period for which the vehicles were used. Further bills to the extent of Rs.36,57,359/- were raised by the fuel supplier M/s Filpoint based on excess requisition slips raised during the period 1.4.2011 to 31.8.2014. Applicant, an S.I of police, along with his assistant working as Constable, were alleged to have committed the fraud of around rupees one crore and accordingly placed under suspension on 20.3.2015. Charge sheet was issued on 27.3.2017. An elaborate inquiry was conducted and based on the inquiry report, disciplinary authority imposed the penalty of Compulsory retirement on 18.4.2017. Appeal preferred was also rejected. Against the penalty imposed, OA was instituted which is under adjudication by this Tribunal. However, as prayed by the applicant, respondents were directed not to evict the applicant from the Govt. quarter occupied by him vide interim orders of this Tribunal dated 16.11.2017 and 1.12.2017. The present MA is instituted by the respondents in the OA to vacate the interim stay in regard to the occupation of the Quarter.

4. The MA has been received by the original applicant. The main ground that is taken by the applicants in the MA (respondents in the OA) is that the applicant (Respondent in MA) is not entitled to occupy the Quarter after being imposed the penalty of compulsory retirement.

5. Applicant claims that for a large part of the period during which the alleged fraud was committed he was not working in the MT Section. Others who worked prior to the applicant in the MT Section were not proceeded against for the alleged procedural lapses. The fact finding report which was the basis of issuing the charge sheet was not made a part of the

documents but was cited in imposing the penalty. When sought it was not given on the ground that it is a secret document. Further, the usage of petrol was being scrutinised by a Committee and, therefore, the responsibility has to be shared by the entire Committee. Instead, he was singled out. Applicant claims that he has found his assistant in unauthorised possession of 2 fuel slip books. The proper course was to proceed against him but the applicant was made the scape goat. Respondents have conducted two inquiries and the first one which was favourable to him was dropped and the later one which went against him was taken up. Documents required were not supplied. After the defense was submitted by the applicant, documents which were not marked were asked to be examined by the Presenting Officer as per the dictates of the Inquiry Officer brazenly violating the relevant rules. Rule 14 (18) of the CCS Rules has been violated.

6. Tribunal keeping in view the above aspects has granted an interim stay to allow the applicant and his family to be in the Quarter as prayed for. Defence of the applicant has to be gone into and the contentions of the respondents have to be analysed in depth to render justice. Applicant has challenged the compulsory retirement in the OA. Depending on the outcome of the OA in regard to compulsory retirement, the vacation of the Quarter can accordingly be dealt with. Deciding the issue of vacation of Quarter based on an MA which is entwined to the main issue may not be proper. Respondents in the MA, did not state any other grounds for vacation except to state that the applicant is ineligible to retain the Quarter in view of the penalty of compulsory retirement. However, the said penalty is under challenge in the OA and, therefore, it would be fair and just to

allow the applicant to retain the Quarter till the OA is decided. Hence, MA is dismissed.

7. Nevertheless, since the OA has been instituted in 2017, Registry of this Tribunal would be directed to post the case on priority in the next week to decide the issue in its entirety or whenever the Bench meets.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(A. K. PATNAIK)
MEMBER (JUDL.)

Dated, the 18th day of July, 2019

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