

K.N. Raman Vs. the Assistant Meteorologist (Administration) and Others

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Court : Central Administrative Tribunal CAT Ernakulam

Decided On : Nov-01-2011

Judge : P.R. Raman, Judicial Member & the Honourable Mr. K. George Joseph, Administrative Member

Appeal No. : Original Application No. 522 of 2010

Appellant : K.N. Raman

Respondent : The Assistant Meteorologist (Administration) and Others

Advocate for Pet/Ap. : For the Applicant: P. Ramakrishnan, Advocate. For the Respondents: Millu Dandapani, ACGSC.

Judgement :

MR. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

1. The applicant in this O.A commenced service as Peon under the Regional Director, National Savings, Thiruvananthapuram, on 06.06.1980. He was declared surplus in the year 1994 and was redeployed as Chowkidar in the service of the Meteorological Department, under the Director, Meteorological Centre, Thiruvananthapuram, as per order dated 08.01.1994. As per his request, he was readjusted and posted at the Government of India Press, Koratty, Trichur, as Durwan in the month of March, 1995. He was not relieved to join as Durwan as he failed to remit Government dues as a result of over payment of salary or otherwise. He absented continuously from 03.05.1995 as he had become unwell.

He had even sought voluntary retirement from service as per his letter dated 03.07.1995 addressed to the 1st respondent. He was not entitled to voluntary retirement as he had not completed 20 years of service. As the applicant remained absent, the first respondent initiated enquiry proceedings under rule 14 of the CCS (CCA) Rules, 1965. The applicant did not attend the enquiry as directed. Hence the enquiry was conducted ex parte on 21.12.1998. The enquiry officer after scrutiny of the records held that the charges were proved. Based on the enquiry report, the 1st respondent imposed a penalty of removal from service on the applicant. O.A. No. 813/2000 filed before this Tribunal challenging the penalty order was disposed on 09.08.2000 directing the applicant to seek statutory remedy. The appeal filed by the applicant was rejected as per order dated 16.01.2008. Aggrieved by the order of rejection, the applicant filed O.A. No. 102/2002 before this Tribunal. The said O.A was disposed of by directing reconsideration of the rejection order after providing the applicant an opportunity of being heard. The Tribunal had also given an opportunity to the applicant to submit a supplementary appeal. As the supplementary appeal was not considered by the 2nd respondent, he filed O.A. No. 44/2009 which was disposed of by directing the 2nd respondent to consider Annexures A-4 and A-7 therein within a period of 4 months from the date of receipt of a copy of the order, Subsequently, the applicant was given a formal notice of hearing by the 2nd respondent and by the order dated 02.12.2009, the order of removal from service imposed upon the applicant was upheld. Hence this O.A. The applicant has sought for setting aside the impugned orders at Annexures A-2, A-3 and A-9 and for a direction to the respondents to reinstate the applicant in service with continuity of service and consequential benefits.

2. The respondents filed a reply statement and contested the O.A.

3. During the course of hearing, this Tribunal directed the respondents to ascertain whether a lighter punishment can be imposed taking a lenient view for the benefit of the applicant to get retirement benefits.

4. The respondents in M.A. No. 915/2011 in OA No. 522/2010 submitted as under:

"When the matter came up for hearing before this Hon'ble Tribunal on 16.08.2011, the Hon'ble Tribunal was pleased to direct the respondents to ascertain as to whether a dismissal order of the applicant can be reversed and whether lighter disciplinary action can be ordered taking a lenient view in order to benefit the applicant to get retirement benefits and other consequential benefits from his earlier employer. The observation of this Tribunal was intimated to the respondent for his appropriate action. It is humbly submitted that the respondents are of the view that the orders passed by the DGM and the Appellate Authority under CCS (CCA) Rules, 1965, cannot be reversed due to limitations and moreover the respondent/applicant has not preferred any revision petition against the impugned order.

Hence in the interest of justice, it is humbly prayed that this Hon'ble Tribunal may be pleased to direct the respondent/applicant to prefer revision petition for consideration by the competent authority, i.e. The Secretary, Ministry of Earth Sciences, New Delhi, as otherwise, the Miscellaneous Applicants/Respondents have limitations in taking any action on the same."

5. We have heard Mr. P. Ramakrishnan, learned counsel for the applicant and Mr. Millu Dandapani, learned ACGSC, appearing for the respondents and perused the records.

6. The enquiry against the applicant was conducted in Chennai. He could not attend the enquiry proceedings due to his ailment. The applicant could not join the post of Durwan at Government of India Press, Koratty, Trichur, in the year 1995, as he was not relieved on the ground that the applicant did not pay back an amount of Rs. 4008/-. On health ground, he had sought voluntary retirement too. The applicant had submitted medical certificates but did not apply for leave. Considering the extenuating factors, we are of the view that it would be fair if a lenient view can be taken by the competent authority in imposing such punishment by which he is not deprived of the retirement benefits. For considering the same, the applicant is directed to prefer a revision petition to the Secretary, Ministry of Earth Sciences, New Delhi, within a period of 30 days from the date of receipt of a copy of this order who should dispose of the same by a speaking order and

communicate it to the applicant within a further period of 60 days. Ordered accordingly.

7. The O.A. is disposed of as above with no order as to costs.

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