
(2012) 05 DEL CK 0674

Delhi High Court

Case No: Writ Petition (C) No. 11821 of 2005 and CM No. 8762 of 2005

Narendra Singh
Rathore

APPELLANT

Vs

UOI and Others

RESPONDENT

Date of Decision: May 11, 2012

Acts Referred:

- Prevention of Corruption Act, 1988 - Section 13(1)

Citation: (2012) 05 DEL CK 0674

Hon'ble Judges: Suresh Kait, J

Bench: Single Bench

Advocate: Jasmeet Singh, for the Appellant; Barkha Babbar, for R-1/UOI, Mr. Ravi Skirl and Mr. Vaibhav Kalra, Advs for respondent Nos. 2 and 3, for the Respondent

Judgement

Suresh Kait, J.

Vide instant petition, the petitioner has sought direction, directing stay of disciplinary / departmental proceedings against the petitioner till the pendency of the criminal case; and also sought direction while quashing of appointment of inquiry officer against the petitioner. Learned counsel for petitioner has submitted that the statement of imputation of mis-conduct or mis-behaviour in respect of the articles of charge framed against the petitioner were issued vide memorandum dated 18.01.2005; whereas in the charge-sheet dated 11.03.2003 filed by the Central Bureau of Investigation are the same charges which are pending trial before learned Trial Court.

2. On perusal of the statement of article of charge framed against the petitioner and the charge-sheet filed by the CBI against the petitioner are same and reads as under:-

Shri N.S. Rathore while functioning as above acquired/purchased movable and immovable properties in his name and in the name of his family members i.e. Smt. Pushpa Rathore, Sundeep Singh Rathore, Taruna Rathore during the check period, for

which he was also duty bound to inform MMTC as per the Rules existing in this regard, however, he failed to do so. He also did not inform MMTC about the gifts received from relatives and other persons during the check period.

Thus, the aforesaid acts of Shri N.S. Rathore regarding acquisition of disproportionate assets, not informing MMTC about acquisition of the properties and gifts received from relatives and other persons disclose gross misconduct on the part of Shri N.S. Rathore.

3. Though, in pursuance to the order dated 23.04.2012, petitioner filed the additional affidavit on 04.05.2012 whereby it is stated that as under:-

Before joining MMTC, I had served DCM - Shriram Consolidated Ltd in different capacities for 24 years of service and left the organisation in 1994 at a senior level and joined MMTC on 20th June 1994.

(a) It is to be placed on record that Smt. Pushpa Rathore, Sandeep Rathore & Taruna Rathore, were Income Tax Payer in their individual capacity, before my joining MMTC. And after my joining MMTC, they were declaring their moveable and immovable properties in their respective Income Tax Returns. Some of the properties were even purchased by them from their Income before my joining MMTC and accordingly their Assessment Orders were issued by Income Tax Deptt. Since, they had independent source of Income, I was not required to submit their purchase & sale of properties to MMTC. And all such I.T. Returns along with Assessment orders are in possession with CBI and through them with MMTC.

Even CBI has admitted in their written reply to the affidavit filed by the petitioners that assets held by Pushpa Rathore, Sandeep Rathore & Taruna Rathore are not on behalf of petitioner as is required in accordance with Section 13(1) (e) of the P.C. Act.

"Moreover, MMTC's" CDA Rules 1975 Rule No. 3 (n) defines family covering, Sons, daughters and spouse, who are wholly dependent on an employee.

(b) No gifts were ever received by me from relatives. Whatever gifts received by Pushpa Rathore, were duly shown in her Income Tax Returns.

4. On perusal of additional affidavit filed by the petitioner, I find, nowhere it is stated that the petitioner communicated to the department regarding acquiring of the properties especially acquired by his wife Smt. Pushpa Rathore. Therefore, I left it open for the department that they may conduct the departmental inquiry against the petitioner only on the two issues mentioned above, while pending criminal trial against him.

5. In the circumstances, the department - respondent No. 2 is free to issue a fresh statement of article of charge against the petitioner limited to both the issues as mentioned above in Para 3 of this Order.

6. In view of above direction, instant petition stands disposed of. Consequently, CM No. 8762/2005 (Stay) does not require further adjudication and stands disposed of.