

LOKPAL OF INDIA
(Plot No.6, Institutional Area, Phase-II, Vasant Kunj)
New Delhi- 110070

Complaint No. : 86/2024 (arising out of Dy. No.792024)

Date : 3rd May, 2024

Coram : **Shri Justice A.M. Khanwilkar**
Chairperson

Shri Justice L. Narayana Swamy
Judicial Member

Shri Justice Sanjay Yadav
Judicial Member

Shri Sushil Chandra
Member

Shri Justice Ritu Raj Awasthi
Judicial Member

Shri Pankaj Kumar
Member

Shri Ajay Tirkey
Member

ORDER

Office objection as to deficiency stands condoned.

2. Present is an Appeal purportedly under section 49 of the Lokpal and Lokayuktas Act, 2013, whereby, the Appellant seeks quashment of Orders dated 13.10.2000 and 28.1.2009 and directions to respondents to give all consequential benefits along with 12% interest on arrear of pay.



3. The relevant facts culled out from the Memo of appeal are that the Appellant while posted as Administrative Officer/Estate Officer, Kandla Free Trade Zone (KFTZ), Gandhidham was served with a charge sheet on 30.7.1998 for major penalty under Rule 14 of the Central Civil Service (Classification, Control & Appeal) Rules, 1965. The charges levelled against petitioners were that during the year 1994 he committed gross misconduct in as much as he in collusion with Shri P.P. Krishnan Estate Supervisor and Shri I.R. Goswami, Care-taker allowed M/s Otoklin Plants and Equipment Ltd to use additional land about 100 acres unauthorisedly without paying rent from May, 1994 to August, 1994 after collecting Rs.60,000/- from the firm for themselves and caused a loss of Rs.5,39,466.64 to KFTZ and they failed to discharge his duties with utmost integrity, honesty, devotion and acted in a manner unbecoming of a Government servant and contravened Rule 3(I)(i), (ii) and (iii) of CCS Conduct Rules, 1964.

4. The Departmental Inquiry on the said charges culminated in order of punishment passed on 13.10.2000, whereby, Appellant was held guilty of charges and was imposed the penalty by reduction of pay by two stages in the Time Scale of pay for a period of two years with further direction that during the period of such reduction, he will not earn any increment of pay and on expiry of such period the reduction will have the effect of postponing the future increment of his pay. A revision preferred by the Appellant under Rule 29A of CCS(CCA) Rules, 1965 was dismissed by Order dated 28.1.2009.

5. Aggrieved, the Appellant filed an original application before Central Administrative Tribunal, Principal Bench, bearing OA No.2625/2000. The said original application was dismissed by the Tribunal by its Order dated 9.1.2002, on the findings that the Respondents have held inquiry in accordance with rules and instructions. The



Tribunal held that applicant was supplied with all the documents listed and had been given sufficient opportunity to defend his case and thus the principle of natural justice have been observed by the Respondents. The Tribunal further observed that as per law laid down by the Supreme Court it was not open to the Tribunal to re-appreciate the evidence, nor go into the quantum of punishment. In these circumstances it was held by the Tribunal that there was no legal infirmity in the disciplinary proceedings against the applicant and the findings of inquiry officer are based on the evidence on record.

6. It appears from the record, that the order of Tribunal was questioned before the High Court of Delhi vide WP (C)3321/2002 which was withdrawn on 9.2.2002. Thereafter, vide CM No.13894/2009 the Appellant sought revival of said Writ Petition. The revival application was dismissed on 9.11.2009 by the Division Bench of High Court of Delhi in the following terms :-

“By this application, the Petitioner seeks to revive the writ petition which was withdrawn on 9th February, 2009.

The writ petition was withdrawn because an order was passed in a departmental revision petition filed by the Petitioner. The Petitioner sought leave to challenge the order passed in the revision petition apparently because the departmental orders had merged with the final order passed in the revision petition.

The Petitioner did challenge the order passed in the revision petition but that was not successful. The Petitioner now seeks leave to revive this writ petition with a view to challenge the earlier order which was the subject matter of the revision petition. This is clearly not possible.



The application is not maintainable. Dismissed.”

7. Thereafter the Appellant preferred another Petition : R/special Civil Application No.3922 of 2024 before the High Court of Gujarat at Ahmedabad, which was dismissed as withdrawn on 12.03.2024, with liberty to approach appropriate Forum in accordance with law.

8. It appears that no further action was taken by the Appellant for redressal of his grievance against disciplinary action.

9. Before filing Petition before the High Court of Gujarat, Appellant had preferred an appeal purportedly under section 49 of the Act of 2013 in respect of alleged corruption by various authorities from June, 1995 to June, 2018. The complaint came up for consideration before the Full Bench of Lokpal of India and by Order dated 20.02.2020 it was disposed of in the following terms:-

“The complainant has sought that his application be admitted as an appeal Under Section 49 of the Lokpal and Lokayuktas Act, 2013 and also as a complaint of corruption.

The powers of Lokpal under section 49 of the Lokpal and Lokayuktas Act 2013, prima-facie, appear to be in respect of laws relating to delivery of Public Services. Hence, this application cannot be treated as an appeal Under Section 49 of the Lokpal and Lokayuktas, 2013.

As regards the complaint, there are allegations of extortion etc. against the Inquiry Officer, CBI officials and others. However, these are not substantiated. The allegations are mostly of creating false evidence, tampering and destroying of records, suppressing documents etc.



In view of the above, the complaint is not covered by the mandate given to the Lokpal under the Lokpal and Lokayuktas Act 2013. Hence, no order needs to be passed.

Accordingly, the complaint is disposed of.”

10. Aggrieved Appellant preferred another appeal under section 49 of the Act of 2013 against the order dated 13.10.2000 on the allegation that, the penalty was wrongly imposed upon him by suppression/tempering of record by his corrupt colleagues in connivance with the IO of the CBI and that Revision Petitions dated 15.1.2007 and 30.03.2007 submitted by him against the penalty order dated 13.10.2000 to bring the facts of tampering of records to the notice of the Disciplinary Authority, were destroyed by the then Under Secretary, Shri P.K. Ravi, DOP&T so as to harm the complainant. The Full Bench of Lokpal of India vide Order dated 17.07.2020 declined to cause any indulgence on finding that punishment order dated 13.10.2000 is twenty years old and that the complaint appears to be time-barred under section 53 of the Act of 2013.

11. Undeterred, the Appellant has again preferred an appeal invoking the provision under section 49 of the Act of 2013 seeking the relief supra.

12. We have given our anxious consideration to the impression carried by the Appellant qua the scope of section 49 of the Act, 2013.

13. Section 49 of the Act of 2013 mandates that the Lokpal shall function as final Appellate authority in respect of appeals arising out of any other law for time being enforce providing for delivery of public services and redressal of public grievances any



Public Authority in cases where the decision contain findings of corruption under the Prevention of Corruption Act, 1988 (49 of 1988).

14. The appellant has tried to impress upon that being a public servant and while discharging public service, he was charge sheeted for alleged misconduct relating to discharge of said service, therefore, the Lokpal of India assumes jurisdiction as an Appellate Authority under section 49 of the Act of 2013 against the order of punishment by the Disciplinary Authority and the order of Review by the President under Rule 29A of the CCS(CCA) Rules, 1965.

15. Trite it is that an Appeal is a creature of statute and unless expressly conferred by a statute, the Appellate jurisdiction can not be assumed. True it is that section 49 of the Act of 2013 provides for that the Lokpal shall function as the final appellate authority in respect of appeals arising out of any other law for the time being in force providing for delivery of public services and redressal of public grievances by any public authority in cases where the decision contains findings of corruption under the Prevention of Corruption Act, 1988 (49 of 1988). However, in our considered opinion it is only complimentary provision and would get activated if an appeal remedy is incorporated in any "other law"- that the appeal shall lie before Lokpal against the order passed under such law- the Lokpal does not assume the Appellate jurisdiction.

16. In the case at hand, evidently the Appellant had been held guilty of the charges of misconduct under the CCS(CCA) Rules, 1965 which are backed by the mandate of Article 309 of the Constitution. Moreover, the Appellant was proceeded against for the conduct unbecoming of a government as contemplated under Rule 3(1) (i), (ii) & (iii) of the of the CCS(Conduct) Rules, 1964. And for redressal of his grievance the Appellant has already exhausted the remedy available to him of Review under Rule



29A of CCS(CCA) Rules, 1965 and Judicial Review before the Central Administrative Tribunal and the High Court.

17. In view whereof an Appeal under section 49 of the Act 2013 is misconceived. Consequently, we decline to cause any indulgence.

18. In the result, the Appeal being not tenable is dismissed in limine.


(Court Master)
