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OFFICE OF THE
GOVERNMENT OF INDIA
AUTHORITY FOR ADVANCE RULINGS
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE
NEW DELHI - 110021

(1001)

17.07.18

F.No. 052(IV)/AAR/2017-18/280

17/7
Anmit

Dated: 12.07.2018

Order Under Rule 11 read with Rule 14 & 19 (ii) of CCS (CCA) Rules.

A charge-sheet for major penalties Under Rule 14 of CCS (CCA Rules) was issued to Sh. Rahul Sharma, Junior Librarian on 01.12.2017. Following charges were framed in the said charge-sheet:

Article - I

That the said Shri Rahul Sharma, Junior Librarian overstayed on deputation with Committee of Parliament on official languages, from 16.11.2012 to 31.12.2015. By this conduct, he has failed to maintain devotion to duty and indulged in conduct unbecoming of a government servant which is in breach of Rule 3(1)(ii) & 3(1)(iii) of the CCS (Conduct Rules), 1964.

Article - II

That during 30.11.2014 to 31.12.2015, the said Shri Rahul Sharma, Junior Librarian travelled to Canada without prior permission or NOC. By this conduct, he has failed to maintain devotion to duty and indulged in conduct unbecoming of a government servant which is in breach of Rule 3(1)(ii) & 3(1)(iii) of CCS (Conduct) Rules 1964 and DOPT OM No. 11013/7/94-Estt(A) dated 18.05.1994.

Article III

That during 08.10.2014 to 31.12.2015, the said Shri Rahul Sharma, Junior Librarian was on wilful absence from duty after the expiry of leave. By this conduct, he has failed to maintain devotion to duty and indulged in conduct unbecoming of a government servant which is in breach of Rule 3(1)(ii) & 3(1)(iii) of the CCS (Conduct Rules), 1964.

Article IV

That during 01.10.2016 to 16.11.2016 the said Shri Rahul Sharma, Junior Librarian remained absent from duty without any authorized leave. By this conduct, he has failed to maintain devotion to duty and indulged in conduct unbecoming of a government servant which is in breach of Rule 3(1)(ii) & 3(1)(iii) of the CCS (Conduct Rules), 1964.

Article V

That during 03.04.2017 to till date, the said Shri Rahul Sharma, Junior Librarian remained absent from duty in an unauthorized manner. By this conduct, he has failed to



maintain devotion to duty and indulged in conduct unbecoming of a government servant which is in breach of Rule 3(1)(ii) & 3(1)(iii) of the CCS (Conduct Rules), 1964.

Article VI

That during the F.Y. 2016-17 and F.Y. 2017-18 and while functioning in the aforesaid office, the said Shri Rahul Sharma, Junior Librarian disobeyed the directions of the higher authority by not submitting the Passport in original. By this conduct, he has indulged in conduct unbecoming of a government servant which is in breach of Rule 3(1)(iii) of the CCS (Conduct Rules), 1964.

Article VII

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Rahul Sharma, Junior Librarian left the headquarters without prior permission. By this conduct, he has failed to maintain devotion to duty and indulged in conduct unbecoming of a government servant which is in breach of Rule 3(1)(ii) & 3(1)(iii) of the CCS (Conduct Rules), 1964 and DOPT O.M. No. 11013/7/94-Estt(A), dated 18.15.1994.

Article VIII

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Rahul Sharma, Junior Librarian made baseless allegations against the officials of the office. By this conduct, he has indulged in conduct unbecoming of a government servant and acted in a discourteous manner which is in breach of Rule 3(1)(ii) & 3(1)(iii), 3(A)(a) of the CCS (Conduct Rules), 1964.

2. The said charge-sheet was sent by speed-post to the residential address of Shri Rahul Sharma, Junior Librarian as he had been absenting from office. The charge-sheet came back unserved with the remarks "left". Later on the charge-sheet was served by pasting the same on the front door of the residence of Shri Sharma at B-1/191, Paschim Vihar, New Delhi-110063 on 21.12.2017 in the presence of two independent witnesses as per the Panchanama drawn and placed in the file. A copy of the memorandum of charge-sheet for major penalties was uploaded on the website of the Authority on 12.02.2018. Notices about the issue of memorandum of charge-sheet for major penalties and Rule 14 of CCS (CCA Rules) were given in two local dailies that is "Hindustan & Times of India" on 11th April, 2018. Through the said notices, the charged official was requested to collect the memorandum and along with its annexure date 01.12.2017 from the office or from the website of the office and submit the reply within 10 days. But, there was no response from him.

3. In past also, on a number of occasions, various letters; for example letter number 052(IV)/AAR/2017-18/97 dated 12.05.2017, 052(iii)/AAR/2015-16/659 dated 29.03.2017, 052(iii)/AAR/2015-16/548 & 549 dated 15.02.2017, 052/AAR/2015-16/322 dated 19.10.2016 & 052(iii)/AAR/2015-16/615 dated 07.03.2017, issued to him on the address available in the office came back un-served with the remarks "left without address", "door locked", "house locked long time" etc. Letter number 615 dated 07.03.2017, initially was sent by hand for service at his



residence but the messenger reported that the house was locked. The statement of the official is written in the Peon Book. Later on it was sent by speed post. Thus, it was found that Mr. Sharma was not residing at his residence nor was he attending to his official duty.

4. In the meanwhile, certain information was received on 07.02.2018 from the office of the Foreigners Regional Registration Officer, New Delhi about the foreign travels of Shri Sharma, the charged official. It is found from the details that he had left India lastly on 14th Nov, 2017. The detail about his arrival after 14th Nov, 2017 has not been provided, meaning thereby that upto the date of furnishing the information Shri Rahul Sharma did not return to the country after 14th Nov, 2017.

5. Under the circumstances discussed above, since it is found that Sh. Rahul Sharma has left the country without any prior permission without informing his whereabouts, it is not reasonably practicable to hold an enquiry in the manner provided in CCS (CCA) Rules. Clause (ii) of Rule 19 of CCS (CCA) Rules states, **“where the Disciplinary Authority is satisfied for reasons to be recorded by it in writing that it is not practicable to hold an enquiry in the manner provided in these rules, the Disciplinary Authority may consider the circumstances of the case and make such orders thereon as it deems fit”**. “Rule 19 begins with a non-obstante clause - “Notwithstanding anything contained in Rule 14 to Rule 18,” which shows that after the satisfaction of the Disciplinary Authority, procedures mentioned in Rule 14 to 18 can be dispensed with. Accordingly, in view of the facts stated above, I am satisfied that this case is fit for invoking Rule 19 (ii) of CCS (CCA) Rules and concluding the disciplinary proceeding without holding the inquiry as provided Under Rule 14 & Rule 15 of the CCS (CCA) Rules, looking to the seriousness of charges as illustrated herein below:

(a) The first article of charge related to over stay on deputation with Committee of Parliament on Official Languages. Shri Rahul Sharma, Junior Librarian's deputation period expired on 16.11.2012. It was incumbent upon him to join his parent office without getting relieved. As per Government of India, OM No. AB. 14017/30/2006-Estt. (RR), DOPT dated 29.11.2006 and No. 6/8/2009-Estt.(P), DOPT dated 01.03.2011, he was deemed to have been relieved on the date of expiry of the deputation period. A letter in this regard was also issued to him on August 06, 2013, but he did not join this office, even after the issue of the letter. Prior to these letter two letters were written to the Committee of Parliament on Official Languages on 12.11.2012 and 18.11.2012 for relieving him. Copy of these letters were given to Shri Rahul Sharma also. By this conduct, he has failed to maintain devotion to duty and indulged in conduct unbecoming of a government servant which is in breach of Rule 3(1)(ii) & 3(1)(iii) of the CCS (Conduct Rules), 1964. The charge is found to be correct. Thus the official has failed to maintain devotion to duty and has indulged in conduct unbecoming of a government servant which is in breach of rule 3(1)(ii) and 3(1)(iii) of the CCS Conduct Rules 1964.



(b) The 2nd Article of charge against Shri Sharma was tour of Canada without prior permission or NOC. One of the reasons for the issue of charge-sheet was his visit to Canada without prior permission. The imputation of charge in this regard was that Shri Rahul Sharma, Junior Librarian visited Canada from 30.11.2014 to 31.12.2015. He did not get prior permission or no objection certificate to visit Canada from this office. He had claimed that NOC was issued to him by the Committee of Parliament on Official Languages (COPL). But this NOC was for the period 27.06.2014 to 08.08.2014 and he did not go to Canada during that period. The official in his letter dated 06.03.2016, received in this office on 06.04.2016 informed that he was in Canada from November, 2014 to December 2015. Exact dates were not mentioned. So, the government official created the confusion, that he did not go abroad before November, 2014. Xerox passport enclosed was not complete. He again filed the same truncated xerox of his passport on 23.06.2016. He concealed his first visit from 27.06.2014 to 13.11.2014. His visit- second; was between 30.11.2014 to 31.12.2015 and thus his visit was without any prior permission or NOC. However after the issue of charge-sheet some information was received from the Foreigner Regional Registration Officer. The information received made this charge graver than the charge put before. It has now been found that the government official has gone abroad at least on 06 occasions. Thus he had misled and misinformed the office that he had gone once only. He was given the NOC by Committee of Parliament on Official Language to travel to Canada from 27th June, 2014 to 08th Aug, 2014 but it is found that he went abroad on 27.06.2014 and returned on 14.11.2014. Later on he again departed for foreign countries on 30.11.2014, 14.09.2016, 26.01.2017, 28.03.2017 and 14.11.2017. It is obvious that he did not seek prior permission for other occasions of going abroad. Even the prior permission granted to the official from the Committee of Parliament on Official Languages (with regard to his first visit) was for 27.06.2014 to 08.08.2014 but he over stayed up to 13.11.2014. Thus, there was default with regard to even his first visit as well. So, the charge levelled against the official is found to be correct and thus he failed to maintain devotion to duty and indulged in conduct unbecoming of a government servant which is in breach of Rule 3(1)(ii) and 3(1)(iii) of the CCS Conduct Rules 1964.

(c) It was also found that the charged official was on wilful absence from duty after the expiry of leave. The Committee of Parliament on Official languages had granted leave to Shri Sharma from 27.06.2014 to 07.10.2014 and had directed him to join this office on 08.10.2014, but Shri Sharma joined this office on 01.01.2016. No leave was sanctioned to him during 08.10.2014 to 31.12.2015. So, the absence was not only unauthorized but wilful also. It is pertinent to mention that the government official was not only absent but he was out of India also without any prior permission. Thus the government official has failed to maintain devotion to duty and indulged in conduct, unbecoming of a government servant, which is in breach of Rule 3(1)(ii) and 3(1)(iii) of the CCS Conduct Rules 1964. The charge is found to be correct. The charge was enumerated as Article – III.



- (d) The charged official was also found to be absent from duty without any leave from 01.10.2016 to 16.11.2016. This was on account of the fact that he had applied for leave from 12.09.2016 to 02.12.2016 on account of treatment of his daughter at Chennai/Vellore but he did not provide any evidence/information in support of the basis for leave. Consequently leave for 20 days that is upto 30.09.2016 was granted but the actual fact which has now come to the knowledge of the office in the meanwhile that this leave application itself was a misrepresentation of facts. It has now been found that the charged official had not gone to Chennai/Vellore rather he had gone to some foreign country on 15.09.2016 and returned on 16.11.2016. So the case of the government official is not only of absence without leave but of giving false information to the office and going abroad without prior permission. Hence the charge levelled against the official was graver as put in the charge-sheet dated 01.12.2017 and he is guilty of breach of Rule 3(1)(ii) and 3(1)(iii) of the CCS Conduct Rule 1964 on one more count. The charge was enumerated as Article – IV. Not only that by telling lies about the treatment of his daughter at Chennai, he has failed to maintain absolute integrity also.
- (e) Another charge related to failure in maintaining devotion to duty and conduct unbecoming of a government servant was levelled on another count for remaining absent from duty in an unauthorized manner. Here also the official was granted leave for 7 days only but he overstayed. The government official tried to mislead the office by giving false information in the leave application that he is going to Uttranchal to buy land. It is found, as informed by Foreigners Regional Registration Officer, New Delhi that he left India on 29.03.2017 and came back on 03.11.2017. So he was not only absent from office without leave but he left the country without prior permission and misled the office also. In this manner the official not only failed to maintain devotion to duty and conducted in the manner unbecoming of a government servant but failed to maintain absolute integrity also. However the charge of lack of absolute integrity was not levelled in the charge-sheet dated 01.12.2017 as the information about his foreign travels were not available at that time. But now the case of the employee is of lack of absolute integrity as well, as he has told lies about his foreign visits and his travel to Chennai, and Uttaranchal. (grounds of leave on different occasions).
- (f) The official was found to be guilty of disobeying the directions of the higher authority by not submitting the passport/visa in original. The government official was required to submit his passport/visa in original as well as certified copy, through various letter issued to him but he failed to do so. He submitted a truncated copy of the visa showing, one travel to Canada. However information collected and available in the record, showed that he went abroad on at least 6 occasions and stayed there for substantially long period. So, the conduct of the government official is not only unbecoming of a government servant but deceitful also. So the case of the official now became a case where the government official had failed to maintain absolute integrity, as well. The charge was enumerated as Article – VI.



(g) A charge was levelled against the official for leaving the headquarter without prior permission. This is Article number VII of Annexure 01 of the Memorandum dated 01.12.2017. The Government official had applied for leave from 30.01.2017 to 03.03.2017 for domestic purposes. Address during the leave period was his residential address. Leave application was submitted on 27.12.2016. During this period letter number 548, 549 were issued to him on 15.02.2017 and sent through a speed post at his residential address of Paschim Vihar. But the letter came back un-served with the remarks, "House Locked" on four occasions i.e. 18.02.2017, 20.02.2017, 21.02.2017 & 22.02.2017. Another letter number 615 was sent by a messenger and even he reported that the house was locked on 08.03.2017. Later on letter number 615 was sent by speed post also but this also came back un-served with the remarks, "Left without address long time", on 11.03.2017 & 14.03.2017. These facts indicate that he left the headquarters without permission. Which is a violation of Rule 3(1)(ii) & 3(1)(iii) of the CCS Conduct Rules 1964. However it has been found that he left the country for Amsterdam on 26.01.2017 and came to India on 09.03.2017. So, it is found that he took leave for domestic purpose but he went abroad. Thus he left the headquarters without prior permission which is in contravention of Government of India DOPT OM No. : 11013/7/2014-ESTT. (A), New Delhi dated 18th May, 1994. Hence the charge against the official is found to be correct and the official deserves to be penalized for major penalty.

(h) Another charge levelled against the government official was making baseless allegation against the Official/Officer of this office. This charge was levelled Article-VIII in Annexure 01 of the Memorandum dated 01.12.2017. Shri Rahul Sharma, Junior Librarian had made a request for voluntary retirement on 14.12.2016 and 09.01.2017. In his applications he has alleged that he was being harassed mentally by the officers and officials of this office. There is no such case. Certain show causes were issued to him after examining his conduct and following the proper procedures. By such unfounded allegations, by this conduct, he has failed to maintain devotion to duty and indulged in conduct unbecoming of a government servant which is in breach of Rule 3(1)(ii) & 3(1)(iii), 3(A)(a) of the CCS (Conduct Rules), 1964. The Government Official is not traceable. Rather the facts and circumstances establish that he is going abroad and staying out of the country for periods as long as 08 months, 13 months, 02 months and so on, atleast 06 occasions and that also without prior permission. So this charge is also found to be correct and the official is found to be guilty of breach of Rule 3(1)(ii) & 3(1)(iii) and 3(A)(a) of the CCS Conduct Rules 1964. Thus, charges levelled against the official, is summarized as follows:

- (i) Over stay in foreign department after the expiry of the period of deputation. (Article I of the Annexure 01 of the Memorandum).
- (ii) Visiting foreign countries atleast on 06 occasions without prior permission. (Article II, Article III, Article IV, Article V & Article VII of the Memorandum of charge-sheet issued on 01.12.2017).



- (iii) Absent from duty without leave. (Article III, Article IV, Article V & Article VII of the Memorandum of charge-sheet issued on 01.12.2017).
- (iv) Failure to maintain absolute integrity by telling lies in his leave applications. (Article II & Article IV of the charge- sheet).
- (v) To act in a discourteous manner. (Article VIII).
- (vi) Lack of devotion to duty and activity unbecoming of a Government Servant. (Article I, II, III, IV, V, VI, VII & VIII of the charge-sheet).

6. Thus, the Government official did not maintain absolute integrity by giving incorrect information about his passport & visa, and telling lies about purpose of leave on more than one occasion. He failed to maintain devotion to duty and acted in a manner unbecoming of a government servant by going abroad without prior permission and remaining absent from office on more than one occasion without sanction of leave and acted in a discourteous manner by leveling baseless allegations against government officers. He is found guilty of breach of Rule 3(1)(i)(ii), (iii) & 3(A)(a) of the Conduct Rules. Thus, the case of the government official is fit for imposition of major penalty under Rule 11 clause (ix) read with Rule 14 and Rule 19(ii) of CCS (CCA) Rules, i.e., **“dismissal from service which shall be a disqualification for future employment under the government”**. Accordingly, Sh. Rahul Sharma, Jr. Librarian is hereby dismissed from service with immediate effect, with a disqualification for future employment under the government.

(A.K. Singh)
Secretary
AAR, Principal Bench

Copy to:

1. Hon'ble Chairperson, Authority for Advance Ruling
2. Mr. Rahul Sharma, Junior Librarian, B-1/191, Third Floor, Paschim Vihar, Delhi – 110063.
3. Zonal Account Officer, Vikas Bhawan, New Delhi
4. Under Secretary, Ad.1C, DOR, New Delhi
5. DDO, Authority for Advance Rulings, New Delhi
6. Service Book.
7. Guard File.

(A.K. Singh)
Secretary





भारत सरकार

GOVERNMENT OF INDIA

अग्रिम विनिर्णय प्राधिकरण, राजस्व विभाग, वित्त मंत्रालय,
AUTHORITY FOR ADVANCE RULINGS, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE
पाँचवी मंजिल, एन. डी. एम. सी. बिल्डिंग, यशवंत प्लेस, सत्य मार्ग, चाणक्यपुरी, नई दिल्ली - 110021
5th Floor, NDMC Building, Yashwant Place, Satya Marg, Chanakyapuri, New Delhi - 110021

F.No. 052/AAR/RS (V)/2018-19/321

Dated: 23.07.2018

To,

Shri Rahul Sharma
House No. 191 (Top Floor)
Block: B-1, Paschim Vihar
New Delhi - 110063

Sub: Voluntary Retirement – regarding.

Ref: Your letter dated 13.07.2018, received in this office on 16.07.2018.

Please refer to the above. In this regard, I am directed to state the order of dismissal from service has already been passed in your case on 12.07.2018. So, no further action is required to be taken on your application.

Yours faithfully


(Yogesh Dubey)
Section Officer
AAR, New Delhi

o/c