

2

Central Administrative Tribunal, Principal Bench

Original Application No.915 of 2002

New Delhi, this the 4th day of April, 2002

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. V. K. Majotra, Member (A)

K. G. Mohanachandran
Section Officer
Ministry of External Affairs
South Block, New Delhi and
r/o C-402, M.S. Apartments
K. G. Marg, New Delhi-1

....Applicant

(By Advocate: Shri C. N. Sreekumar)

Versus

1. Union of India & others,
through
Secretary, Ministry of External Affairs,
New Delhi-11
2. Jayant Prasad
Joint Secretary (CNV) & CVO
Ministry of External Affairs
South Block, New Delhi

.... Respondents

O R D E R (ORAL)

By Justice Ashok Agarwal, Chairman

Disciplinary proceedings were initiated against the applicant in respect of misconduct committed by him while functioning as Attache in Embassy of India, Belgrade. The charge, amongst others, pertained to applicant having claimed excess amount towards the expenditure incurred on stool, urine and blood tests of his wife Mrs. Omaha Mohan and towards cost of ENT tests of himself as also taxi bills. Enquiry Officer by his report of 28.2.94 (page 17) found all the three charges not proved. Disciplinary authority, by his order of 14.10.96, agreed with the finding of the enquiry officer in regard to Article I of the charge. ^{He} however, differed in respect of aforesaid Articles of Charge 2 & 3 and found him guilty by his order of 14.10.96 and imposed a penalty of reduction to a lower stage in the time scale of pay for a period of five



years with further stipulation that he will not earn any increments of pay during the period of such reduction and reductions will have the effect of postponing future increments of his pay. Applicant submitted his review application against the aforesaid order of disciplinary authority to the External Affairs ministry vide his review petition of 12.11.96 (page 57). Since no decision thereon had been given, applicant had instituted OA No.1801/97 which was disposed of by an order passed on 25.8.2000 whereby the matter was remanded back for re-consideration by the disciplinary authority. The disciplinary authority thereafter by his order of 27.2.2001 (page 35), has re-considered the matter and has found the applicant guilty of the aforesaid charge nos.2 and 3 and has maintained the earlier penalty which has been reproduced above. Appeal filed by the applicant to the Ministry of External Affairs has thereafter been dismissed by an order passed on 9.10.2001 (page 95). Applicant has now instituted the present OA seeking to impugn the aforesaid orders passed by the disciplinary authority on 27.2.2001 and by the appellate authority on 9.10.2001.

2. We have heard Shri C.N.Sreekumar, the learned counsel appearing on behalf of the applicant and have perused the file. Shri Sreekumar has submitted that whereas the applicant and his wife had taken treatment at "Boris Kidric" Hospital, the documents produced before the enquiry officer pertained to "Savski Venac" Hospital. Aforesaid discrepancy has been clarified by making a query with the Embassy of India, Belgrade who, in turn, has



informed that the aforesaid "Boris Kidric" hospital has changed its name to "Savski Venac" w.e.f. 8.11.91. In ~~regard to~~ ^{views of} the aforesaid clarification, we do not find that there is any merit in the aforesaid contention raised by Shri Sreekumar.

3. We have gone through the reasons contained in the order of the disciplinary authority as also the appellate authority and we find that the finding of guilt is based on cogent evidence of record. No exception could, therefore, be had to the same both in respect of the charge in regard to applicant having claimed excess medical amounts as also taxi fare. It is true that the enquiry officer has absolved the applicant of the aforesaid charge nos. 2&3. ^{That is} ~~i.e.~~ neither here nor there. It is always open to the disciplinary authority to differ from the finding of the enquiry officer. The disciplinary authority, we find, for cogent reasons, has differed and has given a finding contrary to the one which has found favour with the enquiry officer. Aforesaid findings of the disciplinary authority have been approved by the appellate authority. We do not find any cogent reason to interfere with the same. Similarly, the measure of penalty cannot be said to be disproportionate to the misconduct ~~from the guilt of~~ ^{found proved against} the applicant. Present OA, in the circumstances, we find is devoid of merit. The same is accordingly dismissed in limine.

V.K. Majotra

(V.K. Majotra)
Member (A)

/dkm/

Ashok Agarwal

(Ashok Agarwal)
Chairman