

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

R.A. NO.280/2003
in
O.A. NO.3147/2002.

This the 18th day of March, 2005.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

G.L.Juneja

... Applicant

(By Shri V.S.R.Krishna with Shri S.N.Anand, Advocate)

versus

Union of India & Others

... Respondents

(By Shri M.M.Sudan, Advocate)

ORDER (ORAL)

Hon'ble Shri V.K.Majotra, Vice-Chairman (A) :

Through this application has been sought review of order dated 14.7.2003 whereby OA No.3147/2002 was dismissed.

2. The learned counsel of applicant contended as follows:

- 1) The Tribunal has erred in observing that no prejudice was caused to the applicant with Shri H.C.Ahuja acting as enquiry officer. He pointed out that DG, P&T circular No.20/1/71-Disc.I dated 9.12.1971 lays down that the enquiry officer should not have been associated with an enquiry against the accused person at an earlier stage and should not have expressed an opinion about the merit of the case. The learned counsel stated that as vigilance officer in Ambala, Shri H.C.Ahuja had dealt with the files of applicant and in the present disciplinary proceedings it is irrelevant as to when Shri

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Ahuja was posted as vigilance officer in Ambala. He had no jurisdiction as such to act as enquiry officer.

- 2) Next, the learned counsel pointed out that the Tribunal has erred in not appreciating that while it is obligatory to have two independent witnesses in trap cases, in the present case no independent witness was associated with the trap proceedings, illegally. In this regard, he relied on 1997 (1) Recent CR 259: *Kalu Ram v State of Punjab*.
- 3) Applicant was not caught red-handed. If the allegations were true, then "there is no way in which the hand wash of the applicant would have been colourless and there would have been no traces of phenolphthalein in the solution". He relied on Annexure A-9 of the OA which is the report of the Forensic Science Laboratory, Karnal.

3. On the other hand, the learned counsel of respondents stated that applicant is resorting to re-arguing the entire case as if the present application were an appeal. He stated that under the guise of review application, applicant is arguing on the merits of the case afresh. He stated that the points made by the learned counsel of applicant were considered in the order which is sought to be reviewed. He further stated that while Shri Ahuja was vigilance officer in Ambala during 1997-2000, the incident of trap against the applicant dates as back as 1994. As such, the question of any prejudice being caused to applicant would not have arisen on the appointment of Shri Ahuja as enquiry officer. He further contended that present is not a case of no evidence. Applicant had been held guilty on preponderance of probabilities.

4. We have considered the respective contentions of the parties as also perused the material on record.

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5. In the order under review the contention raised on behalf of applicant that Shri Ahuja, i.e., the enquiry officer, was earlier in charge of vigilance branch has been held to be incorrect. It was stated that Shri Ahuja had held the charge of vigilance from 1997 to 2000, i.e., much after the event involving the applicant had occurred on 14.11.1994. It was observed that Shri Ahuja was not concerned with the investigation in any manner.

6. The points raised on behalf of applicant regarding non-examination of independent witnesses, that the applicant's hand wash did not show any chemicals etc., were ^{also} raised before the Tribunal at the time of arguments. All these points have been considered in the order in question. In this backdrop, it cannot be said that any error is apparent on the face of the record. Points having been raised and considered by the Court in its order cannot be allowed to be raked up again in a review petition. Applicant has failed, in our view, to point out any apparent error on the face of record. Through this application an attempt has been made to re-argue the case, which is certainly not permissible in a review application.

7. This review application is accordingly dismissed.

S. Raju
(Shanker Raju)
Member (J)

V. K. Majotra
(V. K. Majotra)
Vice-Chairman (A)
18.3.05

/as/