



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 3442/2015

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Reserved on: 06/01/2020

Pronounced on: 28.01.2020

Hon'ble Mr. S. N. Terdal, Member (J)
Hon'ble Mr. Mohd. Jamshed, Member (A)

Jogender Prasad Fentmar,
Son of Shri Kewal Das,
Permanently residing at A-226,
Patparganj Village,
Near Mayur Vihar Phase-1,
New Delhi – 110091.

...Applicant

(By Advocate: Ms. Shuruti Agarwal)

Versus

1. Union of India,
Through Secretary (DAE),
DAE Secretariat,
AnushaktiBhavan, C.S.M. Marg,
Mumbai – 400001.
2. Dr. C. B. S. Venkataramana,
Additional Secretary/Appellate Authority,
Department of Atomic Energy (DAE),
AnushaktiBhavan, C.S.M. Marg,
Mumbai – 400001.
3. Ms. Swati Pandey,
Director (Adm)/Disciplinary Authority,
Department of Atomic Energy (DAE)
AnushaktiBhavan, C.S.M. Marg,
Mumbai – 400001.
4. Sh. S. B. Bose,



Inquiry Officer & Chief Administrative Officer,
DCSEM,
Department of Atomic Energy (DAE),
Anushakti Bhavan, C.S.M. Marg,
Mumbai – 400001.

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...Respondents

(By Advocate: Mr. Avtar Singh Chauhan)

ORDER

Mohd. Jamshed, Member (A):-

The applicant joined the service as Driver (Ordinary Grade) in the Department of Atomic Energy (DAE). A charge memorandum dated 29.01.2013 was served on the applicant through which he was informed that he had obtained employment as Driver (Ordinary Grade) in the DAE through fraudulent means and by this conduct he had failed to maintain absolute integrity to duty and acted in a manner unbecoming of a Government servant. Written statement was submitted by the applicant on 27.05.2013 in response to the charge memorandum. The Disciplinary Authority (DA) ordered enquiry into this case and the inquiry report was submitted by the Inquiry Officer (IO) on 23.09.2014 and the charges were also held as proved. The DA vide



order dated 01.04.2015 dismissed the applicant from service. An appeal was submitted by the applicant on 13.04.2015 to the Appellate Authority (AA) and after considering his appeal vide order dated 23.07.2015 the AA reduced the punishment from dismissal from service to removal from service.

2. The applicant contends that he possesses a valid Driving License (DL) which was issued by RTO, Agra on 12.04.2001 and the same was renewed on 31.12.2007. He submits that on his application seeking information through Right to Information (RTI) Act, 2005, it was stated by RTO, Agra that certain records have already been weeded out and such information is not available. He submits that various contentions made by him in his representation to the respondents on the inquiry report have not been considered by the DA and punishment of dismissal was imposed on him. In his appeal also, he has highlighted all these issues before the AA which in turn only reduced the punishment from dismissal to that of removal from service. The applicant also feels that the IO has conducted the enquiry in a biased manner.



Aggrieved by these actions of the respondents, the applicant has filed the present OA seeking quashing and setting aside of the inquiry report dated 23.09.2014, quashing and setting aside of the order dated 01.04.2015 passed by the DA and quashing and setting aside of the order dated 23.07.2015 passed by the AA.

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3. In their counter affidavit, the respondents have opposed the OA submitting that the DAE is a department of Government of India (GoI) and its employees are governed by the Central Civil Services (Conduct) Rules, 1964 and the Central Civil Services (Classification, Control & Appeal) Rules, 1965. Respondents submit that vacancies were advertised for the post of Driver in the year 2007-08. The essential qualification required was to have a valid DL issued by the Competent Authority i.e. RTO. The applicant also applied for the same and attached a copy of the DL No. 719899 with driving permission No. 3039/p/01 dated 12.04.2001 issued by RTO, Agra. The applicant was selected. However, on the basis of a complaint received from one, Shri Ravindra Singh dated 20.09.2012, the department sought



confirmation regarding the authenticity of DL No. 719899 with driving permission No. 3039/P/01 dated 12.04.2001 from RTO, Agra. RTO, Agra informed that the said license was not issued to the applicant by their office.

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4. Based on the report of the RTO, Agra a charge memorandum was issued to the applicant. The applicant was provided all due opportunities during the enquiry. The IO held the charges as proved and the DA through a detailed speaking order imposed the punishment of dismissal from service on the applicant. The appeal made by the applicant was considered by the AA and the punishment was reduced to that of removal from service. The respondents stated that the charge framed against the applicant are very serious in nature, as it is of a fake DL for the job of a Driver, endangering safety of passengers. The applicant relied upon the judgment of the Hon'ble Apex Court in **Roop Singh Negi Vs. Punjab National Bank and Others**, (2009) 2 SCC 570 referring to the quasi judicial nature of the departmental proceeding.



5. We heard Ms. Shuruti Agarwal, learned counsel for the applicant and Mr. Avtar Singh Chauhan, learned counsel for the respondents.

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6. The DAE issued an advertisement No. 3/4/2005/Admn. inviting applications for the post of Drivers (Ordinary Grade). The educational and other qualification prescribed are as under:-

- “(1) Should have passed SSC.
- (2) Must possess Light/Heavy vehicle driving licence of three years.
- (3) Must be able to read English/Hindi numerals and figures.
- (4) Must have a good knowledge of traffic regulations.
- (5) Must be able to local faults and carry out minor running repairs.
- (6) Must be able to change wheels and correctly inflate tyres.
- (7) Must be able to make brake adjustment and engine tune up.”

7. Being a post of Driver having a valid DL issued by the Competent Authority i.e. RTO was a primary requirement. The applicant along with his application attached a copy of DL No. 719899 with driving permission No. 3039/P/01 dated 12.04.2001, allegedly issued by RTO, Agra. The applicant was selected as Driver on the basis of the DL submitted by him. However, one Shri



Ravindra Singh through a letter dated 20.09.2012 alleged that irregularities have been committed in the selection for the post of Driver and stated that the applicant had submitted a fraudulent DL issued by the RTO, Agra.

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8. Taking note of the same, the respondents sought verification from RTO/Licensing Authority, Agra vide their letter dated 27.12.2012. Vide their letter No. 148/D.L./Satyapan/2012 dated 28.12.2012 RTO, Agra confirmed that as per the office record DL No. 719899 with driving permission No. 3039/P/01 dated 12.04.2001 has not been issued to the applicant. Further, RTO, Agra also stated that the last permission No. issued by their office in the year 2001 in the series "P" is bearing No. 2717/P/2001 dated 31.12.2001 and the permission No. 3039/P/2001 mentioned in the license was never issued by them. RTO, Agra further stated that the license permission "No. 3039/AG/2001 dated 07.03.2001 in 'AG' Series was issued to one Shri Satyaveer Singh, S/o Shri J. Singh for LMV (Private) which was valid from



07.03.2001 to 06.03.2006 and not to the applicant.

9. Based on this confirmation from RTO, Agra Page | 8
charge memorandum was issued to the applicant on 29.01.2013 against securing employment for submitting fake DL No. 719899 with driving permission No. 3039/P/2001 as Driver (Ordinary Grade) in the DAE, Government of India. During the departmental enquiry, the applicant was provided all opportunities for presenting his case in accordance with law. Learned counsel for the respondents during the arguments also pointed out discrepancies in the residential address submitted by the applicant in his original application given in the license.

10. The applicant was issued a charge memorandum and enquiry was conducted in accordance with law. Further, the DA after considering all aspects through a detailed speaking order imposed the punishment of dismissal from service which was subsequently reduced by the AA on consideration of his appeal to that of removal from service. The contention of



the applicant that the IO was biased against him cannot be substantiated. He has also not sought change of IO on the ground of bias during the enquiry. He was satisfied with the inquiry proceedings and submitted his defence also. During the arguments it was mentioned by the learned counsel for the applicant that the IO should have also called certain other witnesses which were not indicated in the list of witnesses. This is merely an afterthought. These aspects are for consideration of DA and the AA. As far as, judicial review of disciplinary case is concerned, it is a settled law and the Hon'ble Apex Court in catena of judgments has clarified the role of Tribunal and Courts regarding their limitation. The Hon'ble Apex Court in the case of **Parma Nanda Vs. State of Haryana and others** reported in **1989 (2) SCC 177** had held as **under:-**

“The jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the inquiry officer or competent authority where they are not arbitrary or utterly perverse. The power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Article 309 of the Constitution. If



there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is mala fide is certainly not a matter for the Tribunal to concern with. The Tribunal also cannot interfere with the penalty if the conclusion of the inquiry officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter.”

11. It is evident in this case that the disciplinary proceedings did not suffer from any infirmities and illegalities. All reasonable opportunities have also been provided to the applicant to present his case. There is no aspect that requires intervention of the Tribunal. As far as setting aside of disciplinary action by the DA and AA are concerned, even here the imposition of punishment is largely within the ambit of these authorities and do not suffer from any legal or procedural infirmities.

12. Therefore, we are of the view that no judicial intervention is required in the present OA. In view of the above, the OA is devoid of any merit and the same is, accordingly, dismissed.

There shall be no order as to costs.



(Mohd. Jamshed)
Member (A)

/ankit/

(S.N. Terdal)
Member (J)