

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA NO.1321/2001

NEW DELHI, THIS THE 27TH DAY OF SEPTEMBER, 2002.

HON'BLE MR. JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE MR. M.P. SINGH, MEMBER (A)

Saroj Kapila  
W/o Shri D.R. Kapila  
Welfare Officer, Gr-II  
Children Home, Lajpat Nagar  
New Delhi.  
R/o A-179, Dayanand Colony  
Lajpat Nagar, New Delhi.

..... Applicant

(BY SHRI H.K. GANGWANI, ADVOCATE)

vs.

1. Lt. Governor  
National Capital Territory of Delhi  
Raj Niwas, New Delhi-110007.
2. Chief Secretary  
Govt. of N.C.T., Delhi  
5 Sham Nath Marg, Delhi.
3. Director of Social Welfare  
Govt. of N.C.T., Delhi.  
Old Sect., Delhi.
4. Joint Director (Vigilance)  
Disciplinary Authority  
122-125, Old Sect, Delhi.
5. Joint Director (Admin)  
Department of Social Welfare  
Canning Lane, New Delhi.

.... Respondents.

(BY MRS. SUMEDHA SHARMA, ADVOCATE)

ORDER (ORAL)

JUSTICE V.S. AGGARWAL:-

Applicant (Saroj Kapila) had been employed as Welfare Officer, Grade II in the Children Home for Boys at Lajpat Nagar, New Delhi. By virtue of the present application, she seeks setting aside of the punishment order and for restoration of all the benefits to her.

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2. The relevant facts are that one Master Rohit Ansar was mercilessly beaten by another inmate as a result of which said Rohit Ansar died. The applicant is alleged to have been detailed by the Deputy Supdt. of the Institution. She did not join the Institution at the relevant time. As per the respondents, she was responsible for creating such an atmosphere because she failed to perform her duties at the relevant time.

3. Amongst other grounds, the applicant's learned counsel contended that an application had been submitted by the applicant to the enquiry officer for supply of documents. The enquiry officer rejected the application. According to the applicant, the documents asked for were relevant. When the documents were not given, proper enquiry was not held and on that ground, it is claimed that the impugned order should be quashed. On behalf of the respondents, it was urged that it is the discretion of the enquiry officer and once that discretion has been exercised and the documents were not relied upon by the department, the plea as such must fail.

4. At this stage, we deem it necessary to mention that vide the letter, a copy of which is Annexure C-II, the applicant had asked for the documents and even mentioned the relevancy of the same. We take an opportunity to reproduce the letter on record:

<u>S.No.</u>	<u>Name of Documents</u>	<u>Relevancy</u>
1.	Attested copy of attendance register from 1.1.96 to 31.3.96 of Superintendent and welfare officers of Children home for boys Lajpat Nagar, New Delhi.	To show that Mrs.Saroj Kapila was not present on duty at relevant time of incident and so many times during the holidays.
2.	Copy of First Information report filled with the police in respect of the death of Master Rohit Ansar	That the name of Mrs. Saroj Kapila does not appear in F.I.R.
3.	Duty charts and duty register of Superintendent, Dy. Superintendent, Welfare Officers and relevant staff of children home (for boys)	To show the duties of Mrs. Saroj Kapila.

*18/11/96*



4. Personal file of MASTER Ansar from date of admission in various institution of Social welfare until his death. To prove that the residential address of Master Rohit was not available inspite of best efforts.
5. Copies of duties of Superintendents, Dy. Superintendents and other inspecting officers for Children home (for boys) Lajpat Nagar, New Delhi. To show that not a single superior officer of Mrs. Saroj Kapila had pointed out any laps on her part.
6. Copy of duties of Superintendents, Dy. Superintendents, Care takers and other Officers/ Officials during night and holidays. To show that Mrs. Saroj Kapila was not given any order to attend the office during night and every holidays.
7. Copies of entries in Gate register of children home, (for boys) Lajpat Nagar, from \*1st Jun 96 to 31st May, 1996\*. To show that regular Doctor never visited the institution.
8. Copies of comments/observation of Senior Officers and Hon'ble Minister of Social Welfare Department on enquiry report of dated 4.3.96, by the then Joint Director. To show that senior officers had not found any fault with Mrs. Saroj Kapila in respect to lack of duties on her part.
9. Copy of Police records under which Master Rohit was admitted to the observation home Delhi gate. To show that the address of Master Rohit was not available in Police record even at the time of his arrest.
10. Copy of Police records under which Master Rohit was admitted to the Children Home (for boys), Lajpat Nagar. To show that even after remaining in the observation home for boys the address of Master Rohit could not be found inspite of their best efforts.
11. Copies of duties Chief Probation Officer and Probation Officers grade I and II
12. Copy of duties of Welfare Officer and duty register To show that Mrs. Saroj Kapila used to attend duties on Sundays and holidays only after specific order on any specific days and not by routine duties.
13. Social investigation report of Welfare report officers, Observation Home (for boys) Delhi gate where Rohit Ansar was kept about 4 months. To show that Master Rohit was used to hide the facts of his residential address.

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14. Copies of Inspection Report of Senior Officer and other relevant Departments in regards time-to-time inspection of children home, Lajpat Nagar, New Delhi.


To show that there was administrative lack on the part of senior officers which caused the circumstances leading to the death of Rohit Ansar and Mrs. Saroj Kapila has no role to play...."

5. The law is well settled that whenever there is a departmental enquiry, concerned official against whom, the enquiry is proceeded, must be given a reasonable opportunity to defend himself. When documents are asked for, necessarily the enquiry officer has to see whether the same are relevant or not. Even if the department concerned does not rely upon those documents, relevancy has to be seen from the point of view of the concerned official facing the enquiry. The department may not rely upon the documents but the documents may be necessary for the ~~defence~~ of the concerned official. Therefore, the argument of the learned counsel for the respondents to the contrary must fail.

6. Perusal of the documents asked for clearly shows that the incident and concerning they were relevant concerning the dispute whether the applicant was detailed for duty at the relevant time or not. The said application could not, therefore, be set aside simply on the ground that the department is not relying upon those documents. This clearly leads to the conclusion that a fair opportunity had not been granted to the applicant to defend herself. Consequently, we allow the application and quash the impugned orders. It is directed that a copy of the documents claimed by the applicant should be supplied as mentioned in her application dated 25.7.1997. The enquiry, if deemed appropriate, may be started from the stage when the documents were refused.

In the circumstances of the case, we make no order as to costs.

Announced.

  
(M.P. SINGH)  
MEMBER (A)

  
(V.S. AGGARWAL)  
CHAIRMAN