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Central Administrative Tribunal, Principal Bench

Original Application No.3140 of 2001

New Delhi, this the 8th day of April, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.K. Malhotra, Member (A)

Shri Jag Mohan Sahni,
S/o late Shri Duni Chand Sahni
R/o 169, Dharam Kunj Apartment,
Sector-9, Rohini,
Delhi-85

.... Applicant

(By Advocate: Mrs. Avnish Ahlawat)

Versus

1. The Secretary,
Government of India,
Ministry of Defence,
New Delhi
2. Chief of the Naval Staff,
(For Director of Civilian Personnel)
Directorate of Civilian Personnel,
Naval Headquarter, Sena Bhawan,
D-11 Wing,
New Delhi-11

.... Respondents

(By Advocate: Shri Adish C. Aggarwal)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant assails the order passed by the disciplinary authority dated 27.12.2000 and of the appellate authority dated 9.5.2001. He has been dismissed from service and the appellate authority has upheld that order.

2. It becomes unnecessary for us to dwell into all the detailed controversies raised in the petition because during the course of submissions, it was pointed that the principles of natural justice have totally been ignored during the course of enquiry that was being conducted against the applicant. Learned counsel for the applicant had drawn our attention to various orders that were passed

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on day-to-day basis by the enquiry officer. They pertained to certain inspections and production of documents. It was pointed at the Bar on behalf of the applicant that suddenly thereafter, the enquiry officer without recording any evidence, proceeded to submit the report holding the applicant guilty of the charges.

3. Learned counsel for the respondents did not dispute the fact that no evidence was recorded but urged that the applicant had admitted that he had placed the order in question and, therefore, on basis of documents on the record, the impugned order could be so passed.

4. From the aforesaid, it is obvious and clear that it is a common case of the parties that no evidence was recorded but certain documents on the record were read by the enquiry officer and later on acted upon by the disciplinary authority on the basis of the report submitted by him.

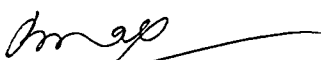
5. It is not in dispute that the charge as such was denied. It is also not in dispute that no evidence had been recorded. No admission and denial of the documents was effected to permit the department to read those documents against the applicant. May be that strict rule of evidence will not apply to the departmental authorities but the fair rules of the game cannot be given a go-by. The documents should be proved in accordance with law before the enquiry officer. That has not been done. In addition to that, even the applicant was not called upon to

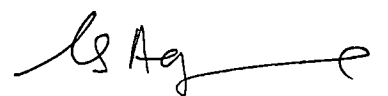
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explain the position, if any. Therefore, we have no hesitation in concluding that fair opportunity has not been given or, in other words, even a fair enquiry in that view of the matter can be termed to have not been held.

6. Resultantly, we quash the impugned orders and direct that if so ^{deemed proper} ~~advised~~, the enquiry officer may from the stage the inspection of the documents had been completed, proceed in accordance with law. O.A. is disposed of.


(S.K. Malhotra)
Member (A) .


(V.S. Aggarwal)
Chairman .

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