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CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 3391 of 2001

New Delhi, dated this the 14th January, 2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, VICE CHAIRMAN (J)

S.R. Korada,
S/o Shri Korada Paidithalli,
R/o 390 A, Chirag Delhi,
New Delhi-110017.

.... Applicant

(By Advocate: Shri Shyam Babu)

Versus

Union of India through
The Secretary,
Department of Scientific & Industrial Research,
Anusandhan Bhavan,
CSIR Building, Rafi Marg,
New Delhi-110001.

.... Respondent

(By Advocate: Shri N.S. Mehta)

ORDER

Mr. S.R. Adige,

Applicant impugns Respondent's Memo dated 13.12.2001 (Annexure A) informing him that it is proposed to take action against him under Rule 16 CCS (CCA) Rules 1965, on the allegation that on 10.9.2001 Shri Jagdish Singh, Scientist-G and Head, RDI, Department of Scientific and Industrial Research had forwarded two notes from applicant Scientist-C regarding classification of SRISTI (Society for Research and Initiatives for Sustainable Technologies and Institutions), and after receipt of Shri Korada's note dated 11.5.2001 it was clarified to him that they were

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working in a number of sectors and applicant seemed to be satisfied with the classification but in subsequent note dated 22.5.2001 applicant stated that he was boycotting the Screening Committee meeting of SIRO because of wrong classification of agricultural sciences cases, and he did not attend the SIRO meeting on the said date, which attracted Section 3(1)(ii) & (ii) CCS (Conduct) Rules read with the CCS (Conduct) Rules, 1964 published by Government of India, Ministry of Home Affairs, D.P.&A.R. 3rd Edition, 1980.

2. The first ground taken by applicant's counsel Shri Shyam Babu is that the aforesaid two notes dated 11.5.2001 and 22.5.2001 were recorded by applicant bona fide in due discharge of his duties, and the charge memorandum would be violative of applicant's fundamental right of speech and expression. While applicant is no doubt entitled to express his opinion orally or in writing in respect of any matter with which he is concerned, subject to such expression being within the bounds of decency and decorum, his right to speech and expression cannot be construed to allow him to state in writing that "he is compelled to boycott today's SIRO Screening Committee meeting in order to protest against the erroneous classification of certain cases, which are actually belonging to agricultural sciences" as contained in his note dated 22.5.2001 (Annexure D) and ^{then} actually boycotted ^{that} that meeting, as alleged by Respondents. This ground, therefore, fails.

3. It was next argued by Shri Shyam Babu that as applicant was Group 'A' officer, action could have been taken against him only by a Presidential order. The order dated 13.2.2001 (Annexure A) was neither a Presidential order nor had it been authenticated by the President.

4. It is true that the impugned order dated 13.12.2001 should have been issued in the name of the President and should have been authenticated on behalf of the President (and to that extent the Under Secretary who issued the order should have been more careful), but merely for that reason we would not be justified in interdicting the same. In this connection we have perused the relevant file from which the aforesaid order issued and note that its issuance was approved by the Minister for Science and Technology, in which Department applicant works. During arguments Shri Shyam Babu contended that the approval was signed only by the P.S. to Minister and not the Minister himself. The P.S. had noted the Minister's approval to initiate disciplinary proceedings against applicant for a minor penalty, and in our view, merely because the Minister has not signed the file, it cannot be construed to mean that his approval was not obtained. In this connection the Hon'ble Supreme Court has in a catena of judgments, ^{held} that it is the substance of the charge sheet that matters and not mere technical formalities. Hence this ground also fails.

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5. Shri Shyam Babu has also contended that the Under Secretary who signed the impugned order dated 13.12.2001 was in the same pay scale as applicant and could not have issued the impugned order. The Under Secretary is authorised under the rules of executive business to authenticate ~~the~~ instruments of Government, and no rule or instruction has been shown to us which would debar him from issuing the aforesaid order.

6. Shri Shyam Babu has relied upon certain rulings viz A.V.S. Reddy Vs. State of Andhra Pradesh 1988 (L&S) Page 1230; AIR 1962 SC 1762 and 1989 (X)ATC 234. We have perused the aforesaid rulings, but the same were recorded in the facts and circumstances of those particular cases, and in the light of the foregoing discussion do not advance applicant's claims.

7. The O.A. warrants no interference. orders are vacated. No costs.

*And is dismissed?
Interim if any*

Lakshmi Swaminathan

(Mrs. Lakshmi Swaminathan)
Vice Chairman (J)

S.R. Adige

(S.R. Adige)
Vice Chairman (A)

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