

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.431/2001

(F)

New Delhi this the 25th day of October, 2001.

HON'BLE MR. M.P. SINGH, MEMBER (ADMNV)
HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Shri Manjeet Singh,
S/o late Shri Ishar Singh,
R/o 44, Telegraph Square,
Bangla Saheb Road,
New Delhi.

-Applicant

(By Advocate Shri D.R. Gupta)

-Versus-

1. Lt. Governor of Delhi
Raj Niwas Marg, Delhi.
2. Chief Secretary to the Govt.
of NCT of Delhi,
I.P. Estate,
New Delhi.

-Respondents

(By Advocate Shri Harvir Singh)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

Heard the parties.

2. The applicant, formerly an Inspector, Food and Supply, has assailed an order dated 29.12.999 passed by the disciplinary authority whereby after disagreeing with the findings of the Enquiry Officer he has been awarded a major punishment of reduction by four stages. On appeal the punishment has been reduced to reduction of pay by two stages for a period of two years with cumulative effect. Although the applicant has raised several contentions in support of his OA, at the outset, he has stated that the enquiry officer in his findings has categorically observed that the Presenting Officer has failed to produce DR-IV and V statements submitted by the FPS holder during the period in question which could not be reportedly made available to him by the F&S Deptt., which only could have supported the

contention of the FPS holder that he had informed the Area Inspector about the non-drawal of ration against the alleged 121 food cards. It is also observed that having failed to produce the Inspection Book which is also a listed document it cannot be decided whether the applicant has followed the departmental instructions and used to note all short-comings on the part of the FPS holder or not. In this view of the matter the applicant has been exonerated of the charges. The disciplinary authority while disagreeing with the findings of the enquiry officer has taken resort and placed reliance on a number of units food cards which are to be submitted by FPS holder on monthly basis for draw of ration by FPS holder. The applicant has been observed to be not vigilant as monthly figures submitted by FPS holders were deleted from the Master Register as such it was established that the applicant was negligent in discharge of his duties with the result there had been a loss to the Government. The disciplinary authority on the basis of disagreement imposed the major punishment which was reduced by the appellate authority by observing that it is not correct that the applicant had been working for all 21 months on the post on which the allegations were only for two and a half months. In this view of the matter the punishment was found excessive. The learned counsel for the applicant placing reliance on the decision of the Apex Court in Yogi Nath D. Bagde v. State of Maharashtra, 1997 (7) SCC 739 contended that although the disciplinary authority is empowered to disagree with the findings of the enquiry officer after giving a reasonable opportunity to show cause to the delinquent official but disagreement should be on the basis of the record of the enquiry and no extraneous record or material

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would be placed reliance on which has not been furnished to the applicant to rebut. In this view of the matter it is stated that as the documents which have been placed reliance later on at the time of disagreement admittedly have not been furnished to the applicant despite being listed documents he has been deprived of a reasonable opportunity to defend against the charge and the findings are based on no evidence and there is no misconduct on his part, the impugned orders are liable to be set aside.

3. On the other hand, strongly rebutting the contentions of the learned counsel for the applicant, the learned counsel for the respondents on the question of furnishing the documents to the applicant fairly submitted that the appellate authority has himself recorded in the order that the documents are not available and were not supplied to the applicant. As far as document, i.e., Inspection Book is concerned, the same is admittedly proved not to have been furnished to the applicant.

4. Although it is contended that as the applicant has been charged for negligence and dereliction of duties which has nothing to do with the documents in question, the misconduct of the applicant has been amply proved from the facts and circumstances and on the basis of the pre-ponderence of probabilities.

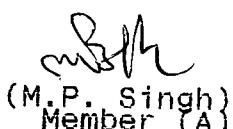
5. Having regard to the rival contentions of the parties and perusal of the material on record, we find that the enquiry officer has categorically observed in his findings that the documents DR-IV and V as well as Inspection Book despite being listed have not been

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furnished to the applicant. In this view of the matter having no misconduct established he has been exonerated of the charge as the charge could not be proved beyond reasonable doubt. The disciplinary authority disagreed with the findings of the enquiry officer on the basis of these documents and had come to the conclusion that the applicant is guilty of the charge and ultimately imposed a punishment. We also find that the appellate authority while dealing with the contentions of the applicant reduced the punishment by observing that the applicant had in fact worked only for a limited period of only two and a half months whereas the loss spread over a period of 21 months. Whatever may be the admitted position of law which has arisen from the facts is that the disciplinary authority has in his disagreement relied upon a material which is extraneous to the enquiry and having not furnished the same to the applicant has certainly placed reliance on an extraneous matter without putting it to the applicant. In this view of the matter we have no hesitation to hold that the conclusion of the disciplinary authority is based on extraneous matter and documents which have never been furnished to the applicant. In this view of the matter the order passed by the disciplinary authority as well as appellate authority are not legally sustainable. The same are quashed and set aside. However, the respondents are at liberty to resume the proceedings after furnishing the documents to the applicant, from the stage of furnishing relied upon documents and to take further action, if so advised, in accordance with law. No costs.



(Shanker Raju)
Member (J)



(M.P. Singh)
Member (A)