

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.171/1999

New Delhi, this 20th day of September, 2000

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri M.P. Singh, Member(A)

V.M. Mohindra
S/B-140, Shastri Nagar
Ghaziabad (UP)

.. Applicant

(By Shri M.K. Gupta, Advocate)

versus

Union of India, through
Secretary
Department of Revenue
Ministry of Finance
North Block, New Delhi

.. Respondent

(By Shri N.S.Mehta, Sr. Counsel through proxy
Shri Kulbir Prashar, Advocate)

ORDER (oral)

By Shri M.P. Singh

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 challenging the order dated 8.10.1998 passed by the respondents, whereby penalty of withholding of entire pension on permanent basis has been imposed on him.

2. Brief facts of the case are that the applicant, who retired on attaining the age of superannuation with effect from 31.10.1991, was served with a charge-sheet dated 19.10.92 under Rule 9 of CCS (Pension) Rules, 1972. The applicant denied the charge levelled against him. Since the documents relied upon in the charge-sheet as mentioned in Annexure III to the charge-memo were not supplied to him, the applicant requested the authorities to supply the same. The respondents vide order dated 17.7.95 appointed Inquiry Officer (IO, for short) to investigate into the charge. The IO fixed 19.12.95 for holding preliminary enquiry. Applicant

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appeared before the IO and requested to supply the aforesaid documents. Next proceedings were held on 23.4.96 when the same were concluded. A perusal of the proceedings dated 23.4.1996 would show that the applicant was not even supplied the documents relied upon in the charge-sheet. Even the sole witness named in the charge-sheet has not been examined by the IO. Out of the 13 documents relied upon by the respondents in support of the aforesaid charge, only some of them were 'shown' to him but not supplied. Even after specific demand made by the applicant to supply the documents, the IO concluded his enquiry and a copy of the inquiry report dated 24.6.96 was sent to the applicant asking him to make representation against the same within 15 days. IO's report would show that the charge levelled against the applicant has been held proved, even without furnishing copies of the documents relied upon.

3. When the applicant was awaiting a reply from the respondents, he was surprised to receive the order dated 8.10.98 along with UPSC's advice dated 17.7.98 whereby the penalty as aforesaid has been imposed on him. Aggrieved by this, the applicant has filed the present OA seeking directions to quash the order dated 8.10.98 and has also sought directions to the respondent to release all terminal benefits including DCRG, pension, arrears along with 24% interest thereon.

4. Respondents have contested the case stating that the thrust of the averments made by the applicant is that he was not made available with the documents thereby he has been denied the natural justice. In fact in one of his communications he himself has admitted to have inspected the relied upon documents, As regards additional documents, IO

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has not found these documents as relevant to the case and hence he did not accede to the request of the applicant. As regards non-production of sole prosecution witness cited in Annexure IV of the charge-memo dated 19.10.92, they submit that since the charges framed were based on documents, non examination of sole prosecution witness makes no difference. Since the objection on authenticity of the documents was never raised, it was not found necessary to examine the witness. In view of the aforesaid submissions, it is incorrect to say that natural justice was denied to the applicant. After finalisation of the inquiry, the inquiry report was made available to the applicant for making submissions thereon. His submissions were considered by the competent authority in consultation with the UPSC and final order was passed after considering all the facts and circumstances relevant to the case. In view of the aforesaid reasons, the impugned order dated 8.10.98 does not deserve to be quashed.

5. We have heard the learned counsel for the parties and perused the records.

6. We find from the records placed before us that the respondent has served the charge-memo on the applicant on 19.10.92 and annexed with it a list of documents (Annexure III) by which the article of charge framed against him were proposed to be sustained. The applicant has requested for supply of these documents. Apart from this, he has also requested for certain additional documents vide his representation dated 19.10.93. It is admitted that none of the 13 documents listed with the charge-memo was supplied nor the additional documents requested for by him were given to him. Only inspection of a few documents out of 13 were

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allowed to the applicant. Respondent in their reply have stated since all the relied upon documents had been perused by the applicant to his entire satisfaction, supplying of copies of relied upon documents was not felt necessary. The additional documents required by the applicant were not found relevant to the charges made, as such, these were not shown. Even the IO in his concluding para has stated that he was in full agreement with the report of the Presenting Officer as reproduced in para 17; thus the request of the applicant (charged officer) for obtaining photocopies of records was not worth consideration as all relied upon documents have been perused by him during the course of inquiry and there are no provisions under law to give photocopies of relied upon documents to the charged officer.

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7. The Hon'ble Supreme Court in the case of Committee of Management, Kisan Degree College Vs. Shambhu Saran Pandey & Ors. (1995) 1 SCC 404 decided on 28.10.94 as held that "On the facts and circumstances, we are of the view that at the earliest the respondent sought for the inspection of documents mentioned in the charge-sheet and relied on by the appellant. It is settled law that after the charge-sheet with necessary particulars, the specific averments in respect of the charge shall be made. If the department or the management seeks to rely on any documents in proof of the charge, the principles of natural justice require that such copies of those documents need to be supplied to the delinquent. If the documents are voluminous and cannot be supplied to the delinquent, an opportunity has got to be given to him for inspection of the documents. It would be open to the delinquent to obtain appropriate extracts at his own expense. If that opportunity was not given, it would violate the principles of natural justice".

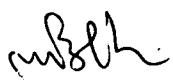
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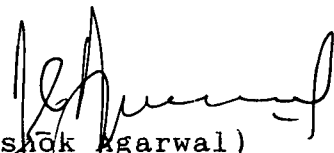
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8. In the instant case, it is not in dispute that the applicant was not even supplied the documents by which the charge was proposed to be sustained. Non supply of the documents has vitiated the enquiry and the applicant has been denied the reasonable opportunity to defend his case effectively which is against the principle of natural justice. In view of the aforesaid reasons and in view of the above judgement of the apex court, the order dated 8.10.98 passed by the respondent is liable to be set aside.

9. For the reasons discussed above, we allow this OA and set aside the impugned order dated 8.10.98. We direct the respondents to release all the retiral benefits including pension, DCRG and arrears to the applicant within a period of three months from the date of receipt of a copy of this order. The aforesaid amount will carry interest @ 12% per annum from the date it was due to the date of actual payment. No order as to costs.


(M.P. Singh)
Member(A)


(Ashok Agarwal)
Chairman

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