

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2194/99

Monday, this the 15th day of January, 2001.

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

Bhola Ram
S/O Shri Ganpat Singh
R/O X-212, Gali No.11
Opposite Brahm Puri Public School,
Brahm Puri, Delhi-53.

..Applicant.

(By Advocate: Shri S.K.Gupta)

VERSUS

1. Govt. of NCT of Delhi,
Through Chief Secretary,
5, Sham Nath Marg,
Delhi.
2. Principal Secretary (GAD),
Govt. of NCT of Delhi,
5, Sham Nath Marg,
Delhi.

..Respondents

(By Advocate: Shri Rajinder Pandita)

O R D E R (ORAL)

By Hon'ble Shri S.A.T. Rizvi, M (A):-

On a charge which essentially falls in two parts as follows, the applicant who is a LDC in the office of the Sub-Registrar has been tried departmentally and the proceedings have concluded in the punishment of withholding of three increments with cumulative effect inflicted by the disciplinary authority by his order dated 12.2.99.

Charge No.I

"On 10.11.89 Shri Ved Prakash, submitted an application for obtaining the copy of his mothers will, Sh. Netrapal, an outsider, received the application on behalf of Shri Bhola Ram, posing himself as an clerk, received the application along with Rs.5/- and issued receipt No.52/78. On 15.11.89 when Sh. Ved Prakash contacted Sh. Netrapal he demanded Rs.200/- for supplying the copy. Sh. Ved Prakash approached CBI. A trap

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was laid and Shri Netrapal was caught red handed when demanding and accepting Rs.100/- from Sh. Ved Prakash on 15.11.89 in the office of Sub-Registrar III Asaf Ali Road.

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Charge No.II

Sh. Netrapal was unauthorizedly working with Shri Bhola Ram in the said office for the last 1 1/2 to 2 years."

2. The aforesaid order has been taken in appeal and the appellate authority has affirmed the order passed by the disciplinary authority, by his order dated 23.9.99.

3. The learned counsel appearing for the applicant has raised several contentions in support of the OA and we will deal with them one after the other in the following paragraphs.

4. The event referred to in the aforesaid charge No.I is dated 15.11.89, and on that date, according to the learned counsel, the applicant was not present in the office and could not, therefore, have been instrumental in the demand of Rs.200 from the complainant Shri Ved Prakash. A perusal of the findings recorded by the Enquiry Officer clearly establishes that the applicant was indeed absent from office on the aforesaid date.

5. The next contention raised by the learned counsel is that the applicant used to deal with copies of Hindi and English documents supplied to whosoever applied for the same. The applicant was not dealing with copies of documents in Urdu. There was another official, namely, Rehmat Ali who was charged with the responsibility of supplying copies of Urdu documents. The complainant Shri

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Ved Prakash who figures in charge No. I, had applied for the copy of an Urdu document. The applicant could, therefore, not have been involved in the supply thereof even if he had been present in the office on 15.11.89. 7

6. In regard to the presence of one Shri Netrapal, referred to in charge No. II, in the office of the Sub-Registrar who allegedly worked in that office for and on behalf of the applicant, the learned counsel has contended that the applicant was a petty official and was not in a position to supervise the working of the office so as to exclude outsiders if there were any working in that office. The Sub-Registrar who is the head of the office, is charged with the responsibility to supervise and to exclude outsiders from the office. To this extent, it will not be proper to charge the applicant for working of Shri Netrapal unauthorizedly in office.

7. On this question, however, the learned counsel for the respondents has placed reliance on what the disciplinary authority has to say in the order passed by him. He has also placed reliance on the letter received from the CVC dated 24.9.98 (Annexure A-10). The report of the EO as well as the order passed by the disciplinary authority both refer to the statement of Shri Shankar Das a UDC working in the office of the Sub-Registrar. The said Shankar Das has gone on to say that when the CBI raid was conducted in the office of the Sub-Registrar on 15.11.89, the said Shri Netrapal was arrested and further that the same Shri Netrapal, who was an outsider, was engaged in issuing receipts from certain D.Books

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maintained in the office of the Sub-Registrar. The aforesaid statement of Shri Shankar Das has not been controverted at any stage and stands out in support of the allegation that Shri Netrapal was engaged in performing certain items of work in the office of the Sub-Registrar even though he was a rank outsider and an unauthorized person. 8

8. The letter received from the office of the CVC to which our attention has been drawn in the preceding paragraph details the following position:-

"2. The IO's report against Sh. Bhola Ram, LDC has been considered by the Commission. The Commission observes that the IO has failed to appreciate the fact that an outsider was unauthorizedly handling official records for the last one and a half to two years which pertained to Bhola Ram's seat. Shri Netrapal, the outsider, had also issued receipt of fees for issuance of certified copies to many individuals, which has been confirmed by the CFSL report. Further, it is difficult to believe that Shri Netrapal was handling the job assigned to Shri Bhola Ram without his consent. Even if that is accepted, it amounts to lack of devotion to duty on the part of Shri Bhola Ram since there is nothing to show that he objected to Shri Netrapal's handling of official records pertaining to his seat, which was confirmed by Shri Shankar Das (PW) during the oral inquiry. The Commission would, therefore, advise non-acceptance of the IO's findings in the case and advise the Govt. of NCT of Delhi to impose a suitable major penalty on Sh. Bhola Ram, LDC."

It would be seen that in the aforesaid extract, the office of the CVC has found fault with the findings of the EO and the main ground taken by the CVC is that the aforesaid Shri Netrapal used to issue receipts in respect

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of fees for issuance of certified copies as has been confirmed by the CFSL reports. The office of the CVC has also expressed the view that the said Shri Netrapal could not function unauthorizedly in the manner he did without the consent of the applicant. According to the CVC, the aforesaid act of commission or omission on the part of the applicant amounts to lack of devotion to duty on his part inasmuch as the applicant does not appear to have objected ever to Shri Netrapal's handling of official records in his office. It is to be noted that the office of the CVC has also taken due note of the evidence of the aforesaid Shri Shankar Das in expressing their opinion contained in the above extract. Thus, in the circumstances, the role of the applicant also appears to be of a dubious nature and for this he must squarely share the blame along with the others manning the office of the Sub-Registrar as pointed out in the judgement and order of the criminal court placed on record.

11. The learned counsel appearing for the applicant has contended that a copy of the aforesaid letter received from the office of the CVC was not supplied to the applicant although the same has been relied upon by the appellate authority. To this extent, according to him, his defence was seriously prejudiced before the appellate authority. A copy of the CFSL report referred to in the findings of the EO and also in the aforesaid letter of the CVC was also not supplied to the applicant. For this reason also, his defence was prejudiced. We do agree with this contention.

12. In the background of the above discussions, we find that while charge No.I referred to above cannot be sustained, it would be necessary for the respondents to give to the applicant a fresh opportunity to defend himself insofar as the latter part of the charge listed at No.II in para 1 is concerned. In order that the principle of natural justice is fully taken care of, the respondents should supply a copy of both the aforesaid documents to the applicant and permit him to state his case. A reasonable opportunity will have to be given to the applicant as usual afresh before the matter is considered further.

13. In sum, therefore, we find that the interest of justice in this OA will be fully met if while striking down the charge listed at No.I in para 1 above, we quash and set aside the orders passed by the disciplinary authority as well as the appellate authority, giving liberty to the respondents to afford to the applicant a fresh opportunity in respect of the latter part of the charge listed at No.I of para 1 of this order and to proceed further in accordance with the rules and to pass such orders as deemed fit. It is clarified that copies of the CFSL report and the CVC's letter dated 24.9.98 and such other new material as is likely to be used against the applicant, will be supplied to him before the matter is dealt with as above. It is further clarified that the respondents will act as expeditiously as possible and will take a final decision in the case in any event within a period of four months from the date of receipt of a copy of this order.

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14. The OA is disposed of in the aforestated terms without any order as to costs.

S. A. T. Rizvi

(S.A.T. Rizvi)
Member (A)

Ashok Agarwal
(Ashok Agarwal)
Chairman

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