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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No.2578/99

New Delhi: this the 12 day of January, 2001

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN(A).

HON'BLE DR.A.NEDAVALLI, MEMBER(J)

A.K.Malik,
S/o Shri Hukam Singh Malik,
R/o F-27, East Jyoti Nagar,
Delhi-93

.....Applicants.

(By Advocate: Shri Surinder Singh)

Versus

1. Union of India,
through

Director General, NCC,
Ministry of Defence,
West Block IV,
R.K.Puram,
New Delhi-66

2. The Dy.Director General,
NCC Directorate, Delhi,
Old Secretariat,
Delhi-54

3. The Commanding Officer,
5,Delhi Battalion,
NCC, Kashmere Gate,
Delhi-6

.....Respondents.

(By Advocate: Shri VSR Krishna)

ORDER

S.R.Adige, VC(A):

Applicant impugns respondents' order dated 25.10.99 (Annexure-A1) terminating applicant's commission as ANO in NCC.

2. Heard both sides.
3. Applicant's case is that he is serving in G.B. S.S. School No.1 Ghonda, Delhi as TGT(Hindi) and has been associated with School NCC since last 13½ years and had attained the rank of ANO in NCC w.e.f. 12.12.95. During his tenure in NCC he received several commendation Certificates. He states that there was some confusion why he had not attended the training course from 26.10.98 to 24.11.98 and consequently NCC activities

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in the School were kept under suspended animation, but when the position was clarified by the School Principal vide letter dated 10.11.98 (Annexure-A-9), NCC activities in the School were ordered to be resumed vide letter dated 26.2.99 (Annexure-A 11). Applicant therefore contends that the termination of his commission is illegal and arbitrary.

4. Respondents had taken the preliminary objection that the Tribunal had no jurisdiction to entertain the OA under the AT Act as it involved grant of a commission under NCC Act but when applicant's counsel showed us the Hon'ble Supreme Court's ruling in UOI Vs. Lt.Col.K.Charan & Ors. 1992 Suppl.(3) SCC 186 whereby it had set aside the CAT PB order dated 12.4.91 in OA No.1513/90 filed by Lt. Col.K.Charan, on grounds other than lack of jurisdiction, after going into the merits of the Tribunal's order, respondents' counsel Shri Krishna made submission on the merits of the case.

5. He pointed out that applicant had avoided participating in a training course from 9.6.98 to 9.7.98 (Appendix-A to respondents' reply) and another course from 26.10.98 to 24.11.98 (Appendix G to respondents' reply). Attention was also invited to para 7 of respondents' reply where it has been stated that NCC Cadets were detailed for participation in Bharatiyam programme in August, 1998 in JNU Stadium, and applicant's indifference towards his NCC responsibilities surfaced when his cadets arrived for the Opening Ceremony at JNU Stadium without the Bharatiyam flags as applicant had locked them up in his office and failed to turn up at the appointed time to issue them to the cadets, which caused severe embarrassment to the organisation.

6. Applicant contends that he was ill and hence could not attend the training course from 9.6.98 to 9.7.98, vide his letter dated 2.9.98 (Appen.-H), but the medical certificate said to be enclosed with that letter is only for the period 29.5.98 to 2.6.98. Applicant who was present during hearing contended that he was under treatment till till 12.6.98 and had certificates to prove it, but if so it is not explained why he did not mention the same in his letter dated 2.9.98. It is also not satisfactorily explained why he did not attempt to join the course, immediately he recovered on 12.6.98, assuming he was ill till then. Applicant contended during hearing that the authorities did not permit anyone to join after commencement of the course, but there is nothing to show that applicant even made the attempt. Further applicant's rejoinder to para 7 of the respondents' reply is wholly unsatisfactory, which lends credence to respondents' contention that applicant was not taking interest in NCC activities.

7. Applicant's commission was terminated after putting him to notice, so he cannot legitimately complain on that score.

8. In the light of the above, the OA warrants no interference. It is dismissed. No costs.

A.Kedavalli
(DR.A.VEDAVALLI)
MEMBER (J)

S.R.Adige
(S.R.ADIGE)
VICE CHAIRMAN (A).

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