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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No.809/99

New Delhi: this the /6/ day of January, 2001.

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

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

J.P.Jain,

BA-6A, DDA Flat,
Munirka,
New Delhi-67

.....Applicant.

(Applicant in person)

Versus

Union of India,
through the

Secretary,
Ministry of Water Resources,
Shram Shakti Bhawan,
New Delhi-1

....Respondents.

(By Advocate: Shri A.K.Bhardwaj)

ORDER

S.R.Adige, VC (A):

Applicant impugns the disciplinary authority's order dated 5.12.97 (Annexure-A 1); the order dated 14.12.98 (Annexure-2) and the order dated 22.3.91 (Annexure-9) initiating disciplinary proceedings against him. He claims complete exoneration from the charges with consequential benefits.

2. Applicant was proceeded against departmentally under Rule 14 CCS (CCA) Rules, 1965 vide Memo dated 22.3.91 (Annexure-9) on the charge that during 1986 while working as Director CWC, New Delhi, he failed to maintain absolute integrity and conducted himself in a manner unbecoming of a Govt. servant, in that he endorsed cheque No.296361 dated 13.6.86 for Rs.2858/- issued in the name of Shri A.K.Bajaj in his own name and got the same credited in his own saving bank account No.504048, Syndicate Bank, R.K.Puram, New Delhi.

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3. In the statement of imputation of misconduct in support of the Article of Charge, it was mentioned that applicant while working as Director, CWC during 1986 was requested by the Thoubal Project authorities Manipur to visit their project and render advice. An Air ticket for the journey of Shri A.K.Bajaj, Deputy Director, CWC for the journey Delhi,-Imphal- Delhi bearing No. 0646017 was received from Imphal which was not purchased officially from the Project authorities. The tour scheduled for March, 1986 of applicant and Shri Bajaj could not materialise due to some official reasons and was postponed. Meanwhile Shri Bajaj was transferred from the Directorate and the ticket remained in applicant's custody. Applicant wrote a letter to Indian Airlines CRA, New Delhi enclosing the aforesaid ticket for refund through crossed draft. This application was submitted by Shri K.K.Srivas EAO CWC on 11.6.86. On the basis of this request, an order cheque bearing No. 296361 dated 13.6.86 for Rs.2858/- in favour of Shri A.K.Bajaj was issued by Indian Airlines and received by Shri Srivas on 13.6.86 itself and handed over to applicant. On 26.6.86 applicant deposited the aforesaid cheque in his S.B. Account No. 504048 in Syndicate Bank, R.K.Puram by making endorsement in his favour by forging the signature of Shri Bajaj and attesting the same.

4. The Commissioner Projects, Ministry of Water resources, who was appointed as the Inquiry Officer in his report dated 25.9.93 (pages 114-120 of the OA) held that applicant had acted in undue haste in getting the cheque amounting to Rs.2858/- issued in Shri Bajaj's

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name deposited in his own S.B.Account. It was also clear that applicant had endorsed the cheque himself in his own favour and attested Shri Bajaj's signature in anticipation of his signing. Ultimately the cheque was not got signed by Shri Bajaj and was deposited without proper authorisation of the payee. Furthermore all this transaction was not in Shri Bajaj's knowledge. Normally such a cheque should have been rejected by the Bank, but in this case, despite the infirmities it was credited in applicant's S.B.Account. Since the money transaction related to private resources, in as much as the money for Shri Bajaj's ticket had been furnished through the private resources of one Shri Braja Mani Singh, the question of maintaining absolute integrity did not arise, as Govt. funds were not involved, but applicant's actions were highly irregular and showed casual and careless handling of financial matters, and the charge that he had acted in a manner unbecoming of a Govt. servant stood substantiated. Hence the charge against applicant was partially proved.

5. A copy of the Inquiry Officer's report was furnished to applicant vide OM dated 6.4.94 for representation, if any.

6. Meanwhile as applicant had retired on superannuation on 31.5.92, the proceedings had been converted into one under Rule 9 CCS(Pension) Rules.

7. Applicant thereupon submitted his representation, upon consideration of which the disciplinary authority disagreed with the findings of the Inquiry Officer, and held the charge as proved. The reason for the disagreement with I.O's findings were communicated to applicant vide

OM dated 19.6.95 giving applicant an opportunity to represent against the disciplinary authority's findings.

8. Applicant submitted his representation on 7.7.95 upon consideration of which, ^{and} also consideration of other materials on record and after consultation with UPSC, the impugned order dated 5.12.97 imposing a 20% withholding of applicant's pension for a period of 3 years.

9. We have heard applicant in person and Shri A.K. Bhardwaj for respondents. Shri K.B.S.Rajan who appeared on behalf of applicant later, was permitted to file written submissions which have been taken on record.

10. The stand taken by/ on behalf of applicant is that Shri Bajaj's Air ticket had been paid for by Shri Braja Mani Singh, Executive Engineer, Thoubal Project from his own sources and had been received from Manipur. At Shri Bajaj's request, applicant took the ticket back with him to Manipur to return it to the Project authorities, but they informed him that the Air ticket could be refunded only in Delhi. Accordingly applicant paid Shri Braj Mani Singh the money for the ticket, and upon his return to Delhi after having performed the tour to Manipur, he approached the Airlines' authorities for refund upon which they issued a cheque for Rs.2858/- in the name of Shri Bajaj. Applicant contends that as Shri Bajaj was on leave, he waited for his return, so that he could affix his signature on the reverse of the cheque to enable him to credit it to his own account after it was endorsed in his name. Applicant avers that upon Shri Bajaj's return from leave,

he requested one of his colleague to obtain Shri Bajaj's signature on the cheque and then deposit the same in his own account in Syndicate Bank, R.K.Puram. It has been contended that non-involvement of public money having been proved, the contrary view taken by the disciplinary authority is based on no evidence; the forged signature of Shri Bajaj as alleged in the chargesheet has been disproved, since there was no signature of Shri Bajaj on the cheque; the prosecution evidence itself brought out the fact of return by applicant of the money to Shri Braja Mani Singh, the contention that the ticket should have been returned to Shri Bajaj or that the letter to the bank for issue of the cheque at applicant's home address should not have been written is beyond the scope of the charge; and if anything, the preponderance of probability in the present case goes in favour of applicant's innocence.

11. We have considered these contention carefully.

12. There is merit in the disciplinary authority's impugned order dated 5.12.97 that a Govt. servant is expected to maintain absolute integrity at all times and whether it is of public funds or private funds, is not of significance. Even if for a moment we accept that only private funds were involved, the fact that applicant credited a cheque, made out in the name of Shri Bajaj, to his own S.B. account without as much as informing Shri Bajaj, does display not only a lack of integrity, but is also conduct unbecoming of a Govt. servant. The fact that Shri Bajaj was not kept in the picture about the ^{crediting the} ~~safeguard~~ of cheque made out in his name into applicant's account, is borne out by Shri Bajaj's examination-in-chief dated 6.5.92 (Annexure-15) wherein he has stated that till he saw the cheque from SBI in

August, 1987, applicant had not talked to him about the same. This testimony has remained unshaken in cross-examination.

13. It is therefore clear that this not a case of no evidence. Applicant has raised the plea of delay in concluding the DE. This delay cannot be said to be unexplained and delay alone is not sufficient ground to warrant judicial intervention, when applicant is found to be guilty as charged. Applicant was given full opportunity to defend himself, and it cannot be said that there has been any infirmity in the conduct of proceedings which has prejudiced applicant in his defence. The impugned orders have also been passed by the authority competent to pass the same.

14. Under the circumstance, we find no illegality, impropriety or infirmity in the conduct of these proceedings, or indeed in the penalty awarded to applicant which warrants our judicial intervention. The OA is dismissed. No costs.

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

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

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