(10)

Central Administrative Tribunal
Principal Bench

New Delhi, dated this the 30th MARCH, 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

1. O.A. No. 921 of 1999

Shri Praveen Ahuja,
Craft Instructor,
I.T.I. Khichri Pur,
Mayur Vihar, Delhi-110091. .. Applicant

Versus

1. National Capital Territory
of Delhi through
the Chief Secretary,
5, Sham Nath Marg,
Delhi.

2. The Lt. Governor, Delhi,
Raj Niwas, Delhi.

3. The Director,
Directorate of Training & Technical
Education,
'C' Block, Vikas Bhawan,
New Delhi-110002.

4. The Principal,
I.T.I. Khichri Pur,
Mayur Vihar Phase I,
Delhi-110091. .. Respondents

2. O.A. No. 930 of 1999

Sanjay Pandey,
Craft Instructor,
I.T.I. KLhichri Pur,
Mayur Vihar, Delhi-110091. .. Applicant

Versus

1. National Capital Territory
of Delhi through
the Chief Secretary,
5, Sham Nath Marg, Delhi.

2. The Lt. Governor, Delhi,
Raj Niwas, Delhi.

3. The Director,
Directorate of Training & Technical
Education,
'C' Block, Vikas Bhawan,
New Delhi-110002.

4. The Principal,
I.T.I. Khichri Pur,
Mayur Vihar Phase I,
Delhi-110091. .. Respondents

3. O.A. No. 931 of 1999

Naresh Kumar Gupta,
Craft Instructor,
I.T.I. Khichri Pur,
Mayur Vihar, Delhi-110091. .. Applicant

Versus

1. National Capital Territory
of Delhi through
the Chief Secretary,
5, Sham Nath Marg,
Delhi.

2. The Lt. Governor, Delhi,
Raj Niwas, Delhi.

3. The Director,
Directorate of Training & Technical
Education,
'C' Block, Vikas Bhawan,
New Delhi-110002.

4. The Principal,
I.T.I. Khichri Pur,
Mayur Vihar Phase I,
Delhi-110091. .. Respondents

4. O.A. No. 932 of 1999

Brij Lal,
Craft Instructor,
I.T.I. Khichri Pur,
Mayur Vihar,
Delhi-110091. .. Applicant

Versus

1. National Capital Territory
of Delhi through
the Chief Secretary,
5, Sham Nath Marg,
Delhi.

2. The Lt. Governor, Delhi,
Raj Niwas, Delhi.

3. The Director,
Directorate of Training & Technical
Education,
'C' Block, Vikas Bhawan,
New Delhi-110002.

4. The Principal,
I.T.I. Khichri Pur,
Mayur Vihar Phase I,
Delhi-110091. .. Respondents

By Advocates: Dr. S.P. Sharma for applicants
in all the O.As
Shri Rajinder Pandita for respondents

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ORDER

S.R. ADIGE, VC (A)

As these four O.As involve common questions of law and fact they are being disposed of by this common order.

2. For this purpose the pleadings in O.A. No. 921/99 will be referred to.

3. Applicants in each of these O.As impugn the Disciplinary Authority's order dated 14.8.97 (Annexure G) and Appellate Authority's order dated 3.2.99 (Annexure A).

4. Applicants were proceeded against departmentally vide Memorandum dated 12.6.97. The aforesaid Memorandum did not specify whether proceedings were being initiated for a major penalty under Rule 14 CCS (CCA) Rules or for a minor penalty under Rule 16 CCS (CCA) Rules, but only a statement of imputation of misconduct for misbehaviour for which action was proposed to be taken was enclosed, As no charge was communicated to applicants, it is clear that the proceedings were initiated against applicants under Rule 16 CCS (CCA) Rules.

5. The statement of imputation of misconduct

referred to the alleged incident on 28.3.97 on which date at about 10.30 A.M. applicants were alleged to have used abusive language and physical force against Shri P.R. Malhotra, C.I. of the Institute where applicants were working as submitted by Shri Malhotra in his complaint to the Director, Directorate of Training and Technical Education.

6. There is nothing to indicate that a copy of the complaint petition was enclosed along with the Memorandum dated 12.6.97.

7. Applicants in their representation to the said memorandum denied the allegations levelled against them. Thereupon the Disciplinary Authority issued penalty order dated 14.7.97 (Annexure E) stating therein that he had gone through the reply furnished by the applicants and had satisfied himself that the conduct of the applicants was unbecoming of a Government servant. By that order dated 14.7.97 he imposed a penalty of withholding two increments without cumulative effect upon each of the applicants.

8. Thereupon without disclosing the reasons for his action the Disciplinary Authority issued a subsequent impugned order dated 14.8.97 (Annexure G) which was identical with his earlier order dated 14.7.97.

9. Applicants filed an appeal dated 1.9.97 (Annexure H) in which various grounds were taken including non- framing of charge, non-supply of complaint petition, issue of order dated 14.9.98 without recalling the identical order passed earlier on 14.7.97 and without showing any instruction why the same was being issued etc. The appeal was disposed by impugned order dated 3.2.99 (Annexure A) which was a bald and non-reasoned order, and did not discuss any of the points raised in the appeals.

10. The orders of the Disciplinary Authority and of the Appellate Authority passed in disciplinary case are quasi-judicial orders which require to discuss the case of the prosecution as well as that of the defence and give reasons for coming to a particular conclusion however, brief they might be, to demonstrate proper application of mind. Moreover incases such as this where it was proposed only to issue a minor penalty under Rule 16 CCS (CCA) Rules, without considering it necessary to hold a formal enquiry at least a copy of the complaint petition against applicants, should have been furnished to them to enable them to respond effectively to the allegations, more so as applicants themselves had made certain complaints against the C.I. Shri P.R. Malhotra, as is clear from their appeal. Furthermore no reasons are forthcoming as to why the disciplinary authority issued orders on 14.7.97, and then without formally recalling them issued identical orders again on 14.8.97.

11. In view of the above the impugned orders of the Disciplinary Authority and of the Appellate Authority cannot be sustained in law.

12. These O.As succeed and are allowed to the extent that the impugned orders of the Disciplinary Authority and of the Appellate Authority are quashed and set aside. Applicants should be restored their increments which were withheld vide the impugned orders. It will be open to respondents to proceed against applicants departmentally in accordance with law, if so advised. No costs.

13. Let a copy of this order be placed in each O.A. case record.

(Dr. A. Vedavalli)
Member (J)

(S.R. Adige)
Vice Chairman (A)

/GK/

True copy

30/3/2001