

Central Administrative Tribunal
Principal Bench

O.A.No.1326/98

Hon'ble Mr. Justice K.M.Agarwal, Chairman
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 29 day of July, 1998

Shri R.K.Tripathi
s/o Shri R.R.Tripathi
House No.117/174, O - Block
Geeta Nagar
Near Rawatpur Rly. Station
Kanpur
U.P. 208 025.

... Applicant

(By Shri Ranjan Mukherjee, Advocate)

Versus

1. Union of India through
the Secretary
Ministry of Defence
South Block
New Delhi - 110 011.
2. The Joint Secretary (Training)
and Chief Administrative Officer
Ministry of Defence
C-II, Hutments Dalhousie Road
DHQ Post Office
New Delhi - 110 011.
3. The Deputy Chief Administrative Officer (P)
Ministry of Defence, CII, Hutments
Dalhousie Road, DHQ Post Office
New Delhi - 110 011.
4. Shri R.K.Sharma, Inquiry Officer
Ministry of Defence
Office of the Director General
Armed Forces Medical Services
M-Block, New Delhi - 110 001.

... Respondents

O R D E R

Hon'ble Shri R.K.Ahooja, Member(A)

The applicant states that he had been working as Lower Division Clerk in the Ministry of Defence since 18.1.1994. He was placed under suspension by an order dated 2.6.1995. A charge memorandum dated 31.10.1995 was also issued proposing an enquiry against him on various charges concerning misappropriation of Rs.17,874/- pertaining to pay and allowances, etc for the months of September 1994 to February, 1995 in respect of four


employees of AFHQ who had resigned from service. The enquiry officer submitted his report on 21.2.1997 holding that the charges were proved against the applicant. After considering the representation of the applicant, the disciplinary authority by its orders dated 30.5.1997 imposed the penalty of dismissal from service. The appeal filed by the applicant was also rejected vide order dated 17.11.1997.


2. The applicant has now come before the Tribunal for setting aside the order of the disciplinary authority. The case of the applicant is that the impugned order has been passed without taking into consideration the facts and circumstances of the case in their proper prospective. In particular, it has been urged that the duties given to LDC involved typing, diarising, registration, etc. We are unable to appreciate the relevances of this plea since the charge is one of misappropriation. It has also been contended by the applicant that he was not given any opportunity to explain his case before the issue of the charge sheet against him. This again is not relevant as he has been given full opportunity to participate in the enquiry and also to represent against the finding of the enquiry officer. It has then been contended that the applicant had supervisory officers like, Administrative Officer and the Senior Administrative Officer who is also DDO therefore the applicant could not be held solely responsible for the default. Since we are concerned with the charges against the applicant, we cannot go into the case of omissions and commissions of the Administrative Officer, etc.

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3. The scope of interference in judicial review is limited and it is not open to the Tribunal to reappreciate the evidence. It is apparent on the face of the record that it is not a case of no evidence. There is no allegation that the applicant did not have an opportunity to produce his defence nor is there any allegation of malafide on the part of the disciplinary authority. The order of the disciplinary authority is neither illegal nor perverse. Consequently, we find no basis to proceed further in the matter. OA is accordingly dismissed at the admission stage itself. No costs.


(K.M. Agarwal)
Chairman


(R.K. Ahuja)
Member(A)

/rao/