

Central Administrative Tribunal, Principal Bench

Original Application No. 1916 of 1998

✓ New Delhi, this the 24th day of October, 2000

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mr. S.A.T. Rizvi, Member (A)

Shri M.L. Meena
S/o Shri Parta Ram Meena
Permanent R/o Village Sainthli Kabas
Post Sainthly, Tehsil Ramgarh
Distt. Alwar
presently living at
L Block, Gali No. 3
House No. 206, Sangam Vihar
Near Devli Village
New Delhi-62

— Applicant

(By Advocate — Mrs. Meera Chhibber)

Versus

1. Union of India, through
Director, Intelligence Bureau
Ministry of Home Affairs,
C.G.O. Complex, Lodhi Road,
New Delhi
2. Jt. Assistant Director
Subsidiary Intelligence Bureau
Ministry of Home Affairs
Govt. of India,
Aligarh

— Respondents

(By Advocate — Shri V.S.R. Krishna)

O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (J)

Facts in brief are that applicant, at the relevant time, was working in the respondents' organisation. He was deputed to Cambodia for a peace mission. Applicant has submitted that before deputing him for the new assignment, he was not told as to what would be the nature of duties nor was provided with any weapon to defend himself. While on duty, on 12.1.93, a shooting incident took place at Seim Reap, two colleagues of applicant died on the spot and the applicant also sustained head injury. He took treatment in a Hospital in Cambodia. After his

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discharge from the hospital, he made a representation to the Indian Contingent Commander for his repatriation to India. It appears that when his request for repatriation was not acceded to, he flew back to India without the knowledge of Indian Contingent Commander, which was not appreciated by the respondents and a disciplinary enquiry was initiated against him on the following charges:

(8)

"Article-I"

That the said Shri M.L.Meena, SA/G while functioning as constable during the period from 12.9.92 to 20.1.93 has deserted his duty in Cambodia.

Article-II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri M.L.Meena, SA has shown gross negligence in the discharge of his official duties as also lack of devotion towards duty.

Article-III

That during the aforesaid period and while functioning in the aforesaid office, the said Shri M.L. Meena has left for India without the approval of the competent authority.

Article-IV

That during the aforesaid period and while functioning in the aforesaid office, Shri M.L.Meena belittled/tarnished the image of Indian Police and his act was nothing short of an act of cowardice.

Article-V

That during the aforesaid period and while functioning in the aforesaid office, Shri M.L.Meena has also brought disrepute to his organisation.

Article-VI

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That during the aforesaid period and while functioning in the aforesaid office, Shri M.L.Meena did not disclose the actual facts to anyone on his return from Cambodia." (9)

2. On the basis of findings submitted by Enquiry Officer, the disciplinary authority awarded the punishment of removal from service on the applicant. Appeal preferred by applicant against the order of the disciplinary authority was also rejected. On the revision petition filed by applicant, the Revising Authority observed that enquiry had not been held in accordance with procedure prescribed in CCS (CCA) rules. He, therefore, remitted the case to the disciplinary authority for conducting the proceedings afresh.

3. The Enquiry Officer in his fresh enquiry report, observed that in view of the then prevailing circumstances and element of human behaviour, Shri M.L.Meena (applicant) had lost his mental equilibrium. He further observed that Shri Meena was overwhelmed with a sense of utter depression and fear-psychosis and the act on his part under such abnormal circumstances was apt to be in consistent with natural human behaviour. The enquiry officer has also gone to the extent to say that no person with normal mental and physical health would otherwise intend to leave such a lucrative job and covet foreign assignment. Keeping in view the principles of natural justice, he held the charges under Articles I, II and III to be not proved beyond doubt. Charges under Articles IV

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and V were held to be not evidently proved. However, ✓ charge under Article VI for hiding the facts at SIB Aligarh office, was held to be proved. (10)

4. On the basis of fresh enquiry report, the revisional authority confirmed the punishment of "removal from service" awarded by the disciplinary authority and the appellate authority.

5. We have heard the learned counsel for the parties and gone through the records.

6. The Tribunal is well conscious of its limitations to the effect that it should not interfere on point of quantum of punishment inflicted upon a delinquent official for an alleged misconduct. However, in this case, we find that though the applicant left the foreign assignment without the permission of competent authority, yet the enquiry officer observed in his findings that the circumstances under which the applicant passed through and sustained a head injury in a shooting incident, he could have lost his mental equilibrium and perhaps with a sense of utter depression and fear-psychosis on the foreign soil, he left such a lucrative job and coveted foreign assignment even at the risk of his career and job.

7. Under the circumstances, we feel that the punishment of removal from service is on higher side which shocks the judicial conscience of the Tribunal and the same deserves to be quashed. We, therefore,

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quash the impugned order of removal from service and remit this case back to the respondents to pass an appropriate order inflicting any punishment on applicant short of removal/dismissal from service.

(11)

8. The above directions should be implemented within a period of two months from the date of receipt of a copy of this order. We may also observe here that we have not touched the merits of the case and have given the above directions only on the quantum of punishment in relation to alleged misconduct of the applicant. No order as to costs.

S.A.T. Rizvi

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

Kuldeep Singh

(Kuldeep Singh)
Member (J)

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