CENTRAL ADMINISTRAITVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 537/98

New Delhi this the 17th Day of March 1998

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

Shri Vishnu Dutt,
Son of Late Shri Keshav Dutt,
Working as Driver in the
Department of Prevention of Food Adulteration,
A/20 Lawrence Road,
Industrial Area, Delhi-110007   Petitioner

(By Advocate: Shri Rana Ranjit Singh)

-Versus-

1.   Joint Director (Tech.)
      Through Director,
      Department of Prevention of Food Adulteration,
      A-20 Lawrence Road,
      Industrtial Area, Delhi.

2.   Government of N.C.T. Delhi
      Through Principal Secretary (H&FW),
      Department of Health & Family Welfare,
      5 Sham Nath Marg, Delhi-54   Respondents

ORDER

Shri R.K. Ahooja, Member (A)

        The applicant, a Driver with the respondent No. 1 is

aggrieved by the order of the appellate authority dated 25th

July 1997 rejecting his appeal against the order of the

disciplinary authority imposing a penalty of stoppage of one

increment with cumulative effect.

        2.   We have heard the counsel for the applicant on the

question of admission. The applicant was proceeded against

on the following charge:

        "It is alleged that Shri Vishnu Dutt, Driver
        of Prevention of Food Adulteration Department
        has misused the official vehicle No. DED-1315
        for his private purpose without having any key
        and authorisation from any competent officer
        of the department on 28.3.1987".

3. The applicant denied the charge whereafter a formal enquiry was conducted in which the defence also produced three witnesses. The Enquiry Officer in his report dated 16.1.1990 held the charges to be proveed. This lead to the penalty for stoppage of one increment with cumullative effect. The applicant thereafter filed an appeal and by the impugned order dated 25.7.1997, Principal Secretary Health acting has aoted as the appeallate authority has rejected the said appeal.

4. The allegation of the applicant is that the enquiry against him was motivated as much as he had been suspended by the then Director of PFA on a false and frivolent complaint. The applicant had also given a complaint against the mis-behaviour of the Director, PFA to the Chief Secretary. He has also alleged that the Enquiry Officer failed to properly evaluate the statements of the defence witnesses and also failed to appreciate the fact that his immediate officer issued the suspension order on a false complaint. The applicant has also gone into considerable detail regarding what he considers to be the weaknesses in the Enquiry Report.

5. We have carefully considered the application and the submission made by the learned counsel. The whole case of the applicant is based on the allegation that the then Director, PFA was annoyed with him and therefore the action taken against him was motivated. What he essentially wants is for us to examine the Enquiry Report to see how the Enquiry Officer went astray in appreciating the evidence and in reaching the wrong conclusion. The law is well settled that it is not the function of the Tribunal to act as a
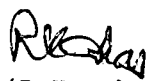
Court of Appeal. As held by the Hon'ble Supreme Court in the case of <u>Union of India Vs. Parma Nanda</u> AIR 1989 SC 1185. the Tribunal cannot interfere with the finding of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. It is also well established that the Tribunal has no jurisdiction to go into the correctness or truth of the charges and the Tribunal cannot take over the functions of the Disciplinary Authority.(See <u>Government of Tamil Nadu Vs. K.N. Ramamurthy</u>, JT 1997(7) SC 401; <u>Union of India Vs. A.N. Saxena</u> JT 1992(2) SC 532; <u>Union of India Vs. K.K. Dhawan</u> JT 1953 SC 236; <u>Union of India Vs. Upendra Singh</u> JT 1994(1) SC 658). We find that the applicant was given full opportunity to be heard. He produced his defence and on the basis of evaluation of the evidence before him, the Enquiry Officer came to a certain conclusion. It also cannot be said that the charges framed do no indicate any misconduct or that the charges framed are contrary to law. Accordingly, we do not find even a prima facie case for further consideration.

The OA is accordingly summarily dismissed.

(K.M. Agarwal)
Chairman

(R.K. Ahooja)
Member(A)

Mittal