

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.557/1998

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New Delhi, this 6th day of July, 2000

Hon'ble Justice Shri V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

I.S.Kapoor
78/4, Urban Estate, Sector 4
Gurgaon (Haryana) .. Applicant
(By Shri B.S. Charya, Advocate)

versus

Union of India, through

1. Secretary
Department of Agriculture & Cooperation
Krishi Bhavan, New Delhi
2. Director(Admn.)
Directorate of Extension
Dept. of Agriculture & Cooperation
IASRI Campus, Pusa, New Delhi .. Respondents

(By Shri S. Arif Mohd, Advocate)

ORDER(oral)

By Reddy, J. -

The applicant is working as UDC in the Directorate of Extension, Ministry of Agriculture. A memo of charge sheet dated 25.11.97 under Rule 16 of CCS(CCA) Rules, 1964(RULES, for short) containing three charges has been issued to him alleging that he was in the habit of grumbling whenever he was asked to expedite cases; that he has threatened the branch officer with a suicide note in his pocket and that he has alleged that the officers are corrupt. He denied the charges. Considering the explanation given by the applicant, the disciplinary authority by the impugned order dated 13.1.98 held that the applicant was guilty of the charges and imposed penalty under Rule 16 of the RULES by reducing his pay by two stages from Rs.5400 to Rs.5200 for a period of two years without cumulative effect. It is also stated that he would not earn increment of pay during the

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period of reduction. Appeal filed by the applicant was rejected. This OA is therefore filed challenging the penalty.

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2. Heard the learned counsel for the applicant and the counsel for the respondents.

3. Learned counsel for the applicant submits that the penalty imposed was a major penalty as it directed that the applicant would not earn increments of pay during the period of reduction. He relies upon Rule 11 of the RULES. We have perused Rule 11. Under sub-rule (iii) of Rule 11 reduction to lower scale in the time scale of pay for a period not exceeding three years, without cumulative effect, is a minor penalty. Again under sub-rule (iv) withholding of increment of pay is also a minor penalty. Hence the direction not to earn increment would not amount to major penalty. It is open to the disciplinary authority to impose penalty of withholding of increment along with reduction of pay.

We do not see any substance in this contention.

4. The next contention appears to be substantive. The contention is that the allegations are not specific and they are vague. For proper appreciation of the contention, it is necessary to extract the charges levelled against the applicant, which are as under:

Charge I - Whenever Shri I.S.Kapoor is asked to expedite the cases, he is in habit of grumbling and expresses his inkling for some consideration in the form of conveyance allowance/tour etc. Shri Kapur has therefore failed to maintain devotion to duty and violated Rule 3(1)ii) of the CCS(Conduct) Rules, 1964.

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Charge II - Shri I.S.Kapur has threatened his Branch Officer stating that he always keeps a suicide note in his pocket alleging that suicide is being committed because of the harassment by his Branch Officer. Shri Kapur has, therefore, failed to maintain absolute integrity and violated Rule 3(1)(i) of the CCS(CCA) Rules, 1964.

Charge III - Shri I.S. Kapur had alleged that his immediate officers are corrupt and taking commission from the staff members of cash section for allowing them OTA when the explanation of Shri Kapur was called he failed to substantiate the allegation and denied to have made such an allegation. Shri I.S.Kapur has, therefore, failed to maintain absolute integrity and violated Rule 3(1)(i) of the CCS (Conduct) Rules, 1964.

These are issued under Rule 16 of the RULES to impose minor penalty. Charge 1 of the allegation is that the applicant used to grumble whenever he was asked to expedite the case. Again charge No.2 contains the allegation that the applicant kept a suicide note in his pocket alleging that suicide will be committed in case of harassment ^{by} ~~by~~ the branch officer. Charge No.3 contains the allegation that the applicant used to allege that the officers are corrupt. In all these charges, it is relevant to note that no specific instances of misconduct with particulars of date and events are mentioned. It should be noted that the disciplinary proceedings are quasi-judiciary in nature involving civil consequences. Specific and clear charges have to be alleged so as to give opportunity to explain and controvert the allegations against the delinquent. In the absence of clear allegations, it would cause great prejudice to the delinquent to defend his case. In the case of A.V.S.Reddy Vs. State of AP & Anr. (1988) 7 ATC 119, the Tribunal clearly held that vague expressions of integrity cannot form base of charge-sheet and an employee can be punished only for those acts which have been specifically prohibited by



the relevant conduct rules. In the instant case what could be the applicant's defence is except a denial. If specific instances are given it would put the applicant to notice of such instances and he would be able to say that those instances are correct or incorrect. Then the DA can form an opinion about the applicant's guilt.

5. We are satisfied that in this case the applicant was prejudiced in his defence as the charges are vague. Learned counsel for the respondents however brings to our notice to para 4 of the applicant's explanation to the charge sheet which is reproduced below:

"Denied. It is submitted that I had never such intention to offer such remarks against my superiors. However, there were some lapses in some cases in my opinion which I had brought to the kind notice of my superiors and to the authorities in good faith and in the interest of the organisation. In case it has hurt the feeling of any individual this may be ignored and regretted"

A reading of this paragraph does not reveal that the applicant has admitted the charges.

6. The appellate authority also has not given any reasons while rejecting the appeal.

7. In the circumstances, the OA succeeds and the impugned order is quashed. Applicant is entitled for all consequential benefits including consideration for promotion, if any. No costs.

Shanta Shastray
(Smt. Shanta Shastray)
Member(A)

And Rajagopala Reddy
(V.Rajagopala Reddy)
Vice-Chairman

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