

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 567/98
T.A. No.

19

DATE OF DECISION 13-11-2000

Sh. Atri Dutt Sharma

... Petitioner

Sh. V.P.S. Tyagi

... Advocate for the
Petition(s)

Versus

UOI & Ors

... Respondents

Sh. V.S.R. Krishna, learned counsel
through proxy counsel Sh. D.K. Srivastava Advocate for the
Respondents

CORAM :

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri V.K. Majotra, Member (A)

1. To be referred to the Reporter or not? Yes

2. Whether it needs to be circulated to
other Benches of the Tribunal? No

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

Central Administrative Tribunal
Principal Bench

O.A. 567/98

New Delhi this the 13th day of November, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri V.K. Majotra, Member(A).

Atri Dutt Sharma,
R/o C/o Kishore Dutt Sharma,
J-2/42-B, DDA Flats,
Near Tara Apartments, Kalkaji,
New Delhi. Applicant.

(By Advocate Shri V.P.S. Tyagi)

Versus

1. Union of India through Secretary,
Min. of Defence, New Delhi.
2. Director General, EME Branch,
Army HQs. DHQ PO New Delhi.
3. Commandant, 510 Army Base Workshop,
Meerut Cantt. Respondents.

(By Advocate Shri D.K. Srivastava proxy for Shri V.S.R.
Krishna)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant has impugned the order passed by Respondent 3 dated 17.9.1996 (Annexure A-1). He has submitted that he has not filed any appeal against the impugned order passed by the disciplinary authority, but has instead submitted a revision petition under Rule 29 of the CCS (CCA) Rules, 1965 (hereinafter referred to as 'the Rules') which has not been acted upon by the respondents.

2. The brief relevant facts of the case are that the applicant, while working with the respondents, namely, Respondent 3 had availed of the Leave Travel Concession (LTC) for the 4 years Block period of 1990-1993. According to him, he and his family members consisting of his wife

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and two sons had undertaken the journey from Meerut to Trivandrum w.e.f. 12.12.1994 to 1.1.1995 by Bus. He has stated that a sum of Rs.8990/- was paid as advance for the said LTC journey. A bill for reimbursement of LTC claim was passed for Rs.11,600/-. The applicant was issued a show cause notice by Respondent 3 to which he had given a reply on 10.7.1995 (Annexure R-3). Later, he was issued a Memorandum dated 19.1.1996 by the standard form of charge-sheet for major penalty under Rule 14 of the Rules (Annexure A-3). In the list of documents relied upon by the respondents with regard to the articles of charge framed against the applicant, they have given a list which includes the show cause notice issued to him on 6.7.1995, his reply dated 10.7.1995 and the reply letter from St. Mary's Academy, Meerut Cantt. dated 24.6.1995 in which that School confirmed that the applicant's son, Master Guru Dutt Sharma, had been present in the School from 17.12.1994 to 22.12.1994 and thereafter, the School was closed for winter vacation from 23.12.1994 to 31.12.1994.

3. Shri V.P.S. Tyagi, learned counsel has contended that when the respondents issued a charge-sheet to the applicant under Rule 14 of the Rules, they could not have passed the impugned penalty order dated 17.9.1996 unless they had held an inquiry under the provisions of the CCS (CCA) Rules which they have not done in the present case. He has also submitted that the reply relied upon by the respondents given by the applicant on 10.7.1995, was with regard to an earlier show cause notice and that cannot be relied upon by the respondents. He has also submitted that the applicant had not filed any appeal against the

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disciplinary authority's order dated 17.9.1996 but had instead, within a period of six months, as provided under Rule 29 of the Rules, submitted a revision petition which has also not been disposed of by the respondents. He does not, however, dispute the fact that the applicant has since returned the claim for the Block years of 1990-1993 to the respondents as in the reply dated 10.7.1995 he has submitted that the same may be deducted from his pay in two instalments. The main contention of the learned counsel for the applicant is that without holding an inquiry and complying with the principles of natural justice, the respondents could not have imposed a major penalty on the applicant. He has clarified that with regard to his new contentions taken in the rejoinder as to the applicability of the provisions of the Rules to the applicant, he does not press the same, in view of the order of the Tribunal in a similar case dated 29.10.1997 (A.G.B. Naik Vs. Union of India & Ors. (1998(1) ATJ 222 - CAT Mumbai Bench)).

4. We have perused the reply filed by the respondents. They have submitted that the applicant had admitted his guilt vide his written statement dated 10.7.1995 and did not press LTC claim for the Block Years of 1990-1993. They have also submitted that the applicant did not ask for any inquiry in the matter and hence, the disciplinary authority passed its order dated 17.9.1996 based on sufficient documentary evidence. They have also annexed the copy of the letter received by them from St. Mary's Academy School dated 24.6.1995 (Annexure R-1) as well as the reply given by the applicant dated 10.7.1995 (Annexure R-3). With regard to the revision petition of the applicant dated 10.12.1996 for reviewing the penalty

order passed by the disciplinary authority dated 17.9.1996, they have stated that no such application has been received by the respondents. They have, however, submitted that an application dated 9.12.1996 addressed to Respondent 3 has been received to review the penalty order and this application could not be entertained as it was not addressed to the appellate authority in terms of Rule 29 of the Rules. With regard to the comments given by the respondents with regard to the claim of the applicant for the Block Years of 1994-1997, prayers pertaining to these claims have since been deleted by the applicant in paragraph 8 of the OA and hence, they are not being dealt with in this O.A.

5. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

6. In the Memorandum dated 19.1.1996 issued to the applicant, paragraph 3 provides that an inquiry will be held only in respect of those articles of charge as are not admitted. The applicant was, therefore, required to specifically admit or deny each articles of charge. By this Memorandum, the respondents had also issued the charge-sheet to the applicant, which included the fact that the applicant had submitted his reply dated 10.7.1995 in which he had confessed that he had sent his relative's son in place of his own son Guru Dutt, for the trip from Meerut to Trivandrum. It is also noticed from the documents on record, filed by the applicant himself, that he had filed a reply on 24.1.1996 (Annexure A-5) which refers to the Memorandum of charges issued to him dated 19.1.1996. In

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paragraph 1 of this letter he has further referred to his own reply dated 10.7.1995 to the show cause notice dated 6.7.1995 in which he had stated the truth. Further, in paragraph 4 of this letter, he has submitted, inter alia, that in view of the fact that he has not concealed any facts, ^{he had} and, therefore, ^{he had} prayed that the disciplinary proceedings initiated against him should be ended/dropped forthwith.

7. Having regard to the information given to the applicant in paragraph 4 of Memorandum dated 19.1.1996 read with his reply to that Memorandum given on 24.1.1996, we are unable to accept the contention of Shri V.P.S. Tyagi, learned counsel, that the inquiry should ^{have} be held in the circumstances of the case. There is no doubt that the applicant has admitted his guilt with regard to the article of charge in question. Therefore, in the circumstances of the case, the procedure adopted by the respondents is in terms of the provisions contained in Rule 14 (5) (a) of the Rules which provides, inter alia, that on receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted or if ^{it} considers ~~it~~ necessary to do so, appoint under sub-rule (2), an inquiring authority for this purpose. In the present case, the disciplinary authority had, after referring to the articles of charge levelled against the applicant, referred to the evidence on record, including the written statement submitted by the applicant. He has submitted that he has come to the definite conclusion that the applicant is guilty of the charge of gross misconduct as he had submitted false LTC claim for his wife and family members for the Block of four years of

1990-1993 and thus tried to cheat the Government. In view of the conclusion arrived at by the disciplinary authority, he has imposed a penalty of reduction in pay of the applicant by three stages for the period from 17.9.1996 to 31.1.1997 which will have the effect of postponing his future increments of pay for this period. In the facts and circumstances of the case, as the applicant has admitted his fault which has also been proved by the documentary evidence, copies of which have also been given to the applicant as annexed to the Memorandum of charges, we see no infirmity in the procedure and final conclusion of the disciplinary authority, which is in accordance with the provisions of the Rules. It is also relevant to note that the applicant has not challenged the order passed by the disciplinary authority dated 17.9.1996 but he has submitted that he had filed a revision petition under Rule 29 of the Rules. The respondents have submitted that they have not received the revision application dated 10.12.1996 from the applicant although they have received an application dated 9.12.1996. There is no specific denial of the ~~other~~ ¹⁸ ~~other~~ ~~submissions~~ ~~made~~ by the applicant in the rejoinder, to these submissions made by the respondents in their counter affidavit dated 12.8.1998. Further, on the merits of the case, for the reasons given, we find no good grounds to interfere in the matter. We also do not consider it necessary or proper in the circumstances of the case to remit the matter to the revisional authority for further decision. The learned counsel for the applicant also did not pray for such an order.

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8. In the result, for the reasons given above, as we find no merit in this application, O.A. is dismissed. No order as to costs.

V.K. Majotra
(V.K. Majotra)
Member(A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'