

Central Administrative Tribunal
Principal Bench

O.A.No.1012/98

(2)

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

New Delhi, this the 20 day of May, 1998

N.S.Bhatnagar
s/o J.S.Bhatnagar
aged about 65 years
r/o No.12, Mitra Vihar
Opp. D Block, Saraswati Vihar
Pitam Pura
New Delhi - 110 034. ... Applicant

(By Shri Naveen R. Nath, Advocate)

Vs.

1. Union of India through the
Secretary
Ministry of Home Affairs
North Block
New Delhi - 110 001.
2. The Government of National
Capital Region Territory of Delhi
through the Secretary (Medical)
5, Sham Nath Marg
Delhi - 110 054.
3. Maulana Azad Medical College
through its Dean
Govt. of NCT of Delhi
New Delhi - 110 002. ... Respondents

O R D E R

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

The applicant at the relevant time was working as a Head Clerk at the Maulana Azad Medical College, New Delhi, when he was proceeded against in a departmental enquiry for the loss of Govt. money. Aggrieved by the order of punishment, Annexure 'A' imposing upon him a penalty of cost of 10% amount from his pension for a period of 5 years, he has now come before the Tribunal.

2. We have heard the learned counsel for the applicant on the question of admission. The applicant has sought the following reliefs:

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a) pass an writ, order or directions to call for the records in the disciplinary case in respect of the Applicant and after perusing the same, quash the order dated 16.10.1996 (Annexure - G) bearing No.14033/3/91-UT.

b) pass a writ, order or direction consequently, in the nature of mandamus directing the respondents to release to the Applicant his entire pension from the date of the said order dated 16.10.1996 and also direct the respondents to continue paying the Applicant his full pension as per rules.

c) Pass a writ, order or direction directing the respondents to release an amount of Rs.40,615.85 (per Annexure-M) along with interest @18% per annum forthwith, being the amount spent towards medical expenses incurred to be reimbursed by the Respondent."

3. The relief 'b' above is consequence to relief 'a' but relief 'c' above is entirely different and constitutes a disparate cause of action. The application is thus in violation of Rule 10 of the CAT (Precedural Rules), 1987.

4. Even if we confine to the first two reliefs, we find that the applicant does not have a *prima facie* case. The punishment has been imposed upon the applicant after going through the whole gambit of disciplinary proceedings in which the applicant has been accorded every opportunity to put forth his version. The punishment has also been imposed after consulting the UPSC. The learned counsel for the applicant argued that the impugned order is bad because it is based on 'no evidence'. We find that the applicant was admittedly the cashier ~~an~~ incharge of Government moneys, there was loss of more than Rs.36,000/-, the key given to the cash chest was kept in a steel Almirah by the applicant and the same was lost. It cannot therefore be said that no evidence was available to establish a charge of negligence. The applicant says that the cash chest ~~was~~ kept in a corridor and he had brought this to the notice of the competent authority but no action thereon was taken. He further

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says that even the single prosecution witness did not say that the applicant was guilty of negligence. We do not consider that all these statements make out that it was a case of no evidence. As the basic evidence that the cash chest was in the charge of the applicant and the key given to the applicant was lost have been established, the Tribunal cannot, in the circumstances, act as an appellate authority. The Tribunal is concerned only with the manner in which the decision is arrived at and not as to whether a different conclusion was possible. See B.C.Chaturvedi Vs. Union of India, 1996(32) ATC 44, Union of India Vs. Parmanada, AIR 1989 SC 1185 and Govt. of Tamil Nadu Vs. K.L.Ramamoorthy, JT 1997(7) SC 401.

5. In view of this position, the OA is dismissed at the admission stage itself.

For

(K.M.Agarwal)
Chairman

Ahooja
(R.K.Ahooja)
Member (A)

/rao/