

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

O.A.No.1404/95

New Delhi this the 8th day of October, 1999.

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE SHRI S.P.BISWAS, MEMBER(A)

Shri Lila Ram,  
s/o Shri Chet Ram,  
Ex.Mate,  
under Delhi Milk Scheme,  
West Patel Nagar,  
Delhi -110008.

..Applicant

(By Advocate Ms.Minoo Mainee )

vs.

Union of India: Through

1. The Secretary  
Ministry of Agriculture,  
Krishi Bhawan,  
New Delhi.
2. The General Manager,  
Delhi Milk Scheme,  
West Patel Nagar,  
New Delhi-110008.
3. The Dy. General Manager(Admn.)  
Delhi Milk Scheme,  
West Patel Nagar,  
New Delhi.

..Respondents

O R D E R (ORAL)

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicant who was working as a Mate under the respondents was proceeded against departmentally under Rule 14 of the CCS(CCA) Rules, 1965 vide memorandum dated 31.7.86. The charges levelled against the applicant reads as follows:

" That the said Sh.Lila Ram was deployed on R.No.7(M) van No.206 on the night of 28/29.3.86 for the distribution of milk alongwith other van staff namely S/Sh.Mukhtiar Singh, HVD, Surjit Singh and Ram Gopal, Mates. That on a tip off from the field, it was informed that the van staff on this route is indulging in mal-practices of unauthorised sale to the unauthorised person. A raid was carried out to ascertain the facts of the complaint. At supply point viz.3 Wing Air Force

Station, New Delhi, the driver of the van as aforesaid alongwith the mates as aforesaid were seen while taking out four milk filled bottles crates from the van as aforesaid and were caught red handed while handing over the same to some outsider unauthorisedly. From the roof where that outsider had kept the supply, a huge quantity of aluminium caps and three empty crates were found. On further checking of the van as aforesaid four crates of toned milk filled bottles were found in excess of the scheduled quantities(ii) one forty litres milk filled can was found short.(iii) five loose caps of toned milk bottles were recovered (iv) Three empty poly packs of one litre capacity were recovered.(v) one empty can was found in excess. Shri Lila Ram is thus charged with attempted pilferage, unauthorised sale of milk to a outsider and keeping loose caps and poly packs etc. illegally for his personal/pecuniary gains in connivance with other van staff which acts being grossly dishonest is in violation of Rule 3 of CCS(Conduct) Rules,1964."

The applicant denied the charge. An enquiry was held. Three witnesses whose names were shown in the list of witnesses were examined. On the close of the enquiry the enquiry officer submitted the report finding the applicant guilty of the charge. The disciplinary authority vide his order dated 3.8.87 accepted the finding of the enquiry officer, held the applicant guilty and imposed on him the penalty of compulsory retirement from service with immediate effect. The appeal filed by the applicant was dismissed by the appellate authority. It is aggrieved by the order of compulsory retirement that he has filed this application impugning orders at Annexures A1 and A2.

2. The impugned orders are assailed mainly on the following grounds:

- i) the statement of witnesses at the preliminary enquiry and recovery memo were not furnished to the applicant before the enquiry started.
- ii) the Enquiry Officer erred in not calling the witnesses to whom the applicant was alleged to have sold milk unauthorisedly.

3. We have perused the pleadings and documents on record and have heard the learned counsel appearing for the applicant. In the reply statement the respondents have categorically stated that all the documents were furnished to the applicant before the enquiry started. Though the applicant has in his rejoinder reiterated the contention that the statement of witnesses and recovery memo were not furnished to him, no evidence is adduced to establish this contention. If before the commencement of the enquiry the listed documents and the statement of witnesses were not furnished to the applicant, the applicant could have made a representation requesting for making the materials available to him. There is no case for the applicant that such a request has ever been made and it has also not been shown as to how the applicant was prejudiced in the matter. Therefore the reliance placed on the ruling of the Apex Court in 1998(6) SCC 651, State of U.P. Vs. Shatrughan Lal does not apply to the facts of the case because inasmuch as the applicant has not shown that he was prejudiced in his defence or that he had made a request for the supply of the documents.


4. Learned counsel for the applicant with considerable vehemance argued that the gravamen of the charge against him was that he sold milk unauthorisedly to outsiders, those outsiders who would have been the most competent witnesses to depose against him should have been examined and that the non-examination of these witnesses is fatal to the charge. In support of this contention the learned counsel brought to our notice the ruling in the case of P.N.Mukherji vs. Union of India, ATJ 1993(1) page 56. The facts of the case under

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citation have no relevance to the facts in this case. The three witnesses who had detected the pilferage of milk and selling by the applicant have been examined as witnesses. It is on the basis of the evidence available from their testimonies and the other relevant circumstances that the enquiry officer as also the disciplinary authority came to the finding that the applicant was guilty of the charge. It is well-settled by now that once the enquiry has been held in accordance with the rules and a decision has been arrived at by the disciplinary authority on the basis of some material, the Courts and Tribunal would not interfere in such finding as the Courts and Tribunal are not exercising the appellate jurisdiction in matters like this.

5. In the light of what is stated above, we find no merit in this application and we dismiss the same leaving the parties to bear their own costs.

  
S.P. BISWAS  
MEMBER (A)

  
A.V. HARIDASAN  
VICE CHAIRMAN

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