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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 1747/1995

New Delhi, this 7th day of October, 1996

Hon'ble Shri A.V. Haridasan, Vice-Chairman(J)
Hon'ble Shri K. Ramamoorthy, Member(A)

Shri Madan Lal
s/o Shri Ganga Ram
F-25/28, Sector 3
Rohini, New Delhi .. Applicant

(By Shri Gurmeet Singh, Advocate)

vs.

1. Secretary
Deptt. of Dairying & Animal Husbandary
M/Agriculture, Krishi Bhavan
New Delhi
2. The Officer-in-charge
Delhi Milk Scheme
West Patel Nagar, New Delhi ... Respondents

(By Shri Madhav Panickar, Advocate through
his proxy counsel Shri J. Banerjee)

ORDER

Shri K. Ramamoorthy, Member(A)

The short point involved in this application relates to the much discussed issue as to whether departmental action can be initiated on charges in respect of which criminal case had been launched on which an order of acquittal has been passed by the court. Brief facts of the case are that the applicant was working under the Delhi Milk Scheme and was prosecuted for offences involving criminal misappropriation of falsification of accounts. The applicant had been issued chargesheet on 16.10.80. The Metropolitan Magistrate by his judgement dated 11.12.87 found the applicant innocent and acquitted him of the charges. Subsequent to the order of acquittal fresh charge sheet was issued against the applicant on 13.9.95 containing the following:

12



"Charge I: That the said Shri Madan Lal II, Cash Clerk while posted in the field for collection of sale proceeds of milk depots under his charge during the period from 1979 to 1980 had deposited less amount to the tune of Rs.63,519/- in cash section, DMS. He is thus charged with embezzlement of govt. money to the tune of Rs.63,519/-. This act of a govt. servant shows doubtful integrity which is highly unbecoming and in contravention of Rule 3 of CCS(Conduct) Rules, 1964.

Charge II: That the said Shri Madan Lal II, while functioning as Cash Clerk and posted for collection of sale proceeds of milk depots during the period 1979-1980 had adopted fraudulent means by which he manipulated the figures of cash collected by him from the milk depots under his charge and deposited less amount with DMS to the tune of Rs.63,519/-. He is thus charged with adopting fraudulent means for his personal gains by manipulation is representation of amount collected by him which act of a Govt. servant is highly unbecoming and in contravention of Rule 3 of CCS(Conduct) Rules, 1964."

2. It is the contention of the applicant that as the allegation which forms the basis of the chargesheet dated 13.9.95 being the same on which he was prosecuted and tried, after the court has found him not guilty he cannot be subsequently subjected to a departmental proceedings on the basis of the same allegation.

3. As the issue involved needs expeditious decision, as agreed by the counsel we heard them for a final disposal at this stage. The learned counsel for the parties were heard and the averments made have also been gone through. The learned counsel for the applicant reiterated that the new charge-sheet containing the charges are identical to the charges contained in the complaint filed before the Metropolitan Magistrate, who disposed of the case by judgement dated 11.12.87 arriving at a conclusion of the "innocence of the accused". He relied on the judgement of the apex court

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in the case of Sulekh Chand and Sulakh Chand Vs. Commissioner of Police & Ors. (1994 Supp (3) SCC 674), wherein the apex court has clearly laid down as under:

"....Therefore, once the acquittal was on merits the necessary consequence would be that the delinquent is entitled to reinstatement as if there is no blot on his service and the need for the departmental enquiry is obviated. It is settled law that though delinquent official may get acquittal on technical grounds, the authorities are entitled to conduct departmental enquiry on the selfsame allegations and take appropriate disciplinary action. But, here, as stated earlier, the acquittal was on merits."

4. The observations of their Lordships squarely apply to the facts of this case. The court has after analysis of all the evidence held not only that the prosecution did not establish the guilty of the applicant but also that the evidence on record led to a conclusion of his innocence.


5. The learned counsel for the respondents relied on the judgement of the Tribunal dated 19.9.94 in OA 855/1994 to contend that there can be no bar in initiating departmental enquiry. In fact he stated that this order had been specifically obtained in a case involving the very same applicant in the very same case. He therefore contended that the question of quashing charge sheet should not arise.

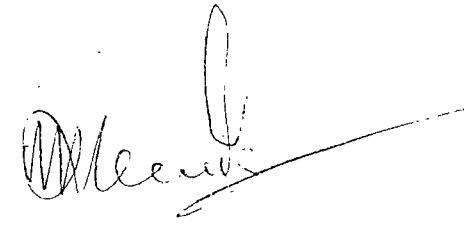
6. All the averments raised in the arguments have been duly considered. The Tribunal's order and judgement dated 19.9.94 is in respect of the departmental proceedings which were initiated in 1980 and related to the question of treatment of the period of suspension

etc. That order is different from the present order under challenge which is a fresh charge-sheet served on the applicant vide order dated 13.9.95 (Annexure A-I).

7. The learned counsel for the respondents also referred to the case of Nelson Motis Vs. UOI & Anr. reported in (1993) 23 ATC 382. This case is also distinguishable from the present case since the issue decided in this case related to a case where the nature and scope of the criminal case were very different from those of the departmental disciplinary proceedings. In that case the apex court held "acquittal cannot conclude the departmental proceedings". In the instant case, however, the position is different. On a perusal of the judgement of the Metropolitan Magistrate, it is seen that the charges referred to in the criminal case are the selfsame charges of misappropriation and falsification of account, which are the charges made in the present charge-sheet also. In our opinion, this case is squarely covered by the apex court's judgement in the case of Sulekh Chand (supra).

8. In view of the above position, this application succeeds. The charge-sheet issued vide impugned order dated 13.9.95 is quashed and set aside. There shall be no order as to costs.


(K. Ramamoorthy)
Member(A)


(A.V. Haridasan)
Vice-Chairman(J)

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