

(14)

Central Administrative Tribunal  
Principal Bench

O.A. No. 1973 of 1995

New Delhi, dated this the 16<sup>th</sup> February, 2000.

Hon'ble Mr. S.R. Adige, Vice Chairman (A)  
Hon'ble Mr. Kuldip Singh, Member (J)

Shri Ajit Kumar Sen,  
S/o late Shri P.C. Sen,  
R/o 400, Housing Board Colony,  
Sector 22,  
Faridabad, Haryana.

. Applicant

(By Advocate: Shri K.C. Mittal)

Versus

1. Union of India through  
the Secretary,  
Ministry of Urban Development,  
Nirman Bhawan, New Delhi.
2. The Director of Printing,  
Directorate of Printing,  
Government of India, Nirman Bhawan,  
New Delhi.
3. The Manager,  
Government of India Press,  
Faridabad, Haryana.
4. Shri A.K. Agnihotri,  
Inquiry Officer,  
C/o The Manager,  
Govt. of India Press,  
Faridabad,  
Haryana.
5. Shri D.D. Saxena,  
Presently: Manager,  
Government of India Press,  
Ring Road, Mayapuri,  
New Delhi-110064.

... Respondents

(By Advocate: Shri N.S. Mehta)

ORDER

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant      impugns      the      Departmental  
Proceedings initiated against him as well as the  
Disciplinary Authority's order dated 1.2.93 (Annexure  
A-1);      the Appellate Authority's order dated 9.7.93

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(Annexure A-2) and the Presidential Order dated 9.6.95 (Annexure A-3).

2. Applicant was proceeded against departmentally on the charge that on 29.1.92 at about 2.30 P.M. while coming out of the premises of the Government of India, Faridabad where he was working as Lino Operator, he was caught red handed with 31 Lino slugs which were recovered from his possession (shoes) during the course of checking at the gate.

3. The Enquiry Officer in his report dated 4.1.93 (Below Annexure 26) held the charge against applicant beyond doubt.

4. A copy of the Enquiry Report was furnished to applicant vide letter dated 5.1.93 for representation if any.

5. Applicant submitted his representation on 21.1.93.

6. After considering materials on record, including applicant's representation the Disciplinary Authority by order dated 1.2.93 imposed the penalty of removal from service. Meanwhile applicant had been suspended by order dated 29.1.92. and the Disciplinary Authority in <sup>7</sup>h~~is~~ aforesaid order dated 1.2.93 directed the entire period be treated as non-duty for all purpose.

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7. Thereupon applicant filed appeal and the Appellate Authority by his order dated 9.7.93 after going through the materials on record but after considering applicant's good record of service in the past that the ends of justice would serve if the penalty of punishment of removal was reduced to one of compulsory retirement and ordered accordingly

8. Applicant thereafter filed a revision petition dated 4.9.93 (Annexure A-29) followed by reminder dated 15.4.94 (Annexure A-30) which was disposed of after consultation with UPSC vide order dated 8.6.95 against which this O.A. has been filed.

9. The O.A. came up for hearing on 25.1.2000 on which date applicant's counsel Shri K.C. Mittal made submissions and the case was ordered to be listed on 27.1.2000 for further hearing but it did not come up on that date. It, however, came up on 4.2.2000 on which date none appeared for applicant while Shri N.S. Mehta appeared for Respondents who was heard and the case was closed for orders.

10. The first ground taken by applicant is that 31 Lino Slugs cannot be concealed in shoes nor can a person wear and walk with a such large number of lino slugs in his shoes as alleged in the charge. This assertion involves reappreciation of evidence, which we in the exercise of judicial review in a O.A. are not competent to do. Furthermore the lino slugs were shown to us, and in our view it cannot be said that those 31 lino slugs could not have been sought to ~~have been~~<sup>have been</sup> concealed in the shoes worn by applicant on the day of the incident. Hence this ground fails.

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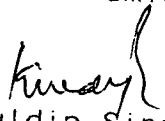
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12. The second and third ground taken are that the I.O. was biased and his report suffers from non-application of mind, because according to applicant nobody could walk with 31 lino slugs in his shoes. As pointed out above the question whether a person could conceal 31 lino slugs in his shoes is a question of reappreciation of evidence and merely because the I.O. has concluded that applicant had kept 31 Lino Slugs in his shoes, does not necessarily mean that the inquiry officer was biased and his report suffers from non-application of mind. Indeed the perusal of the I.O.'s report reveals that all the PWs had stated in their deposition that on search by Time Keeper, applicant himself removed his shoes and took out the lino slugs from them and during the course of D.E. applicant nowhere attempted to challenge the evidence of any of the PWs.

13. The orders of the Disciplinary Authority as well as the Appellate Authority and indeed that of the President are detailed and reasoned orders, which taken into account the points raised by applicant.

14. No infirmity in the conduct of the proceedings has been highlighted which prejudiced the applicant in his defence and the principle of natural justice have been fully adhered to.

15. The O.A. warrants no interference and it is dismissed. No costs.

  
(Kuldeep Singh)  
Member (J)  
/GK/

  
(S.R. Adige)  
Vice Chairman (A)