

CNETRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

...

O.A.No.2187 of 1995

Dated New Delhi, this 15th day of July, 1996.

HON'BLE SHRI A. V. HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI K. MUTHUKUMAR, MEMBER(A)

S. K. Shukla
S/o Late Shri B. D. Shukla
R/o 227, Kamla Nehru Nagar
GHAZIABAD (U.P.)

... Applicant

By Advocate: Shri S. S. Tewari

versus

1. Union of India through:
Secretary
Ministry of Information & Broadcasting
Shastri Bhawan
Rajinder Prasad Road
NEW DELHI.

2. Principal Information Officer
Press Information Bureau
Ministry of Information & Broadcasting
NEW DELHI.

3. Deputy Principal Information Officer
P.I.B. Headquarters
(Ad hoc Disciplinary Authority)
Press Information Bureau
NEW DELHI.

... Respondents

By Advocate: Shri V.S.R. Krishana

O R D E R (Oral)

Shri A. V. Haridasan, VC(J)

The applicant while holding the post of Head Clerk was served with a memorandum of charge dated 23.12.91/16.1.92. An enquiry was practically held.

The chargesheet was issued by the second respondent. After receipt of the inquiry report by the second respondent, he, by order dated 30.11.94 (Annexure-D) informed the applicant

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that the proceedings were being dropped without prejudice to further action which may be considered necessary in the circumstances of the case. Thereafter no further action was taken in that matter for about three months. However, a fresh memorandum of charge dated 16.2.1995 identical to the one in which the proceedings were dropped, was issued by the third respondent. The applicant was to retire on 28.2.1995 on superannuation. On 28.2.1995 the applicant made a representation wherein he made a request for supplying a copy of the enquiry report which was submitted by the Enquiry Officer in the first enquiry. The request of the applicant was not complied with and he was served with a letter dated 30.8.1995 in which it was stated that the enquiry was dropped on account of procedural lapses and report of that enquiry was not considered necessary in the circumstances of the case to be given to the applicant. It is aggrieved by the said order and also on account of the fact that a fresh enquiry is being held against the applicant although a full fledged enquiry had been held earlier, that the applicant has filed this application under Section 19 of the Administrative Tribunals Act, 1985. The applicant has prayed that the impugned order dated 16.2.1995 may be quashed and the respondents may be directed

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to give him retiral benefits with interest. It has been alleged in the application that as a full fledged enquiry was held and as the applicant was not informed of the reason why the chargesheet was dropped, it is not open for the respondents to hold another enquiry on the same set of allegation at this distance of time.

2. The respondents in the reply seek to justify the impugned action on the ground that the enquiry which was held earlier had to be dropped as the chargesheet in that case was issued and the Inquiry Officer was appointed by the second respondent who really was an appellate authority, the disciplinary authority being the Deputy Principal Information Officer and that the order by which the enquiry was dropped, it was made clear that the chargesheet was dropped without prejudice to further action deemed necessary to be taken.

3. The learned counsel for the applicant relied on a decision of the Government of India dated 5.7.1979 quoted below as No.9 under Rule 15 of the CCS(CCA) Rules Swamy's Compilation 1995 Edn. at page-75. According to these Government of India instructions, when a disciplinary authority drops the proceedings without prejudice to further action, the reason for dropping the proceedings should be made clear in the order and the order should be so worded that the dropping of the proceedings was without prejudice to further

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action. In this case, as the order dated 30.11.1994 merely informs the applicant that the charge was being dropped and it did not contain the reason why the charge was dropped, Shri S. S. Tiwari, the learned counsel for the applicant argued that the respondents are not now entitled to proceed with the disciplinary proceedings. Though at the first flash, this argument would appear to be appealing, a close scrutiny of the facts and circumstances and also of the circumstances under which the chargesheet was earlier dropped, would show that this argument does not have any force.

4. The respondents in their reply have contended that disciplinary authority of the applicant at the time when the earlier chargesheet was issued, was the Deputy Principal Information Officer and the earlier chargesheet issued by the Principal Information Officer was irregular. Shri V. S. R. Krishna, the learned counsel for the respondents argued that according to the Government of India decision no.6 under Rule 12 of the CCS(CCA) Rules quoted at page-34 of Swamy's Compilation (supra), the appellate authority or any other authority higher than the appropriate punishing authority cannot exercise any concurrent powers of punishment which has to be exercised only by the disciplinary authority and that it was under these circumstances that the chargesheet happened

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to be dropped. He further argued that if the disciplinary authority for some technical reason has to drop the disciplinary proceedings and has further to initiate it, it is necessary for the disciplinary authority to state the reason of dropping the chargesheet and that in this case as the disciplinary proceedings were initiated by service of chargesheet by the appellate authority itself, it was not necessary to mention the reason in the order. However, the learned counsel states that no prejudice has been caused to the applicant.

As the material collected at the enquiry should not be used in the fresh enquiry, there is no legitimate basis ^{for} of the grievance projected by the applicant in the application. We find considerable force in this argument. If the appellate authority exercises the power of punishment in disciplinary proceedings the opportunity to appeal is lost to the Government servant and, therefore, we are of the considered view that dropping of the disciplinary proceedings which was initiated by the appellate authority, is perfectly in order. It would have been better if in the order the reason for dropping the proceedings was mentioned. However, non-mentioning of that has not caused any prejudice to the applicant and is therefore not a bar for initiating fresh proceedings. As the material collected at

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the first enquiry is not to be made use of for any purpose, the order refusing to give a copy of it, also cannot be faulted.

5. In the light of what has been stated above, we find no infirmity in the procedure adopted by the respondents by issuance of the chargesheet. Finding no merit, we dismiss this application.

There shall be no order as to costs.



(K. Muthukumar)
Member(A)



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

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