

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.A./T.A. No. 1147 of 1995 Decided on: 16.2.96

Chaman Singh APPLICANT(S)
(By Shri S.C. Luthra with Shri Advocate)
O.P. Khokha

VERSUS

U.O.I & Anr. RESPONDENT(S)
(By Shri M.K. Gupta Advocate)

OD RAM
THE HON'BLE SHRI S.R. ADIGE, MEMBER (A)

THE HON'BLE ~~SRI/SHRI~~ DR. A. VEDAVALLI, MEMBER (J)

1. To be referred to the Reporter or not? Yes
2. Whether to be circulated to other Benches of the Tribunal ? No

S.R. Adige
(S.R. ADIGE)
Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.1147/95

New Delhi: this the ~~January~~ ^{February} 16th, 1996.

HON'BLE MR.S.R.ADIGE, MEMBER(A)

HON'BLE DR.A.VEDAVALLI, MEMBER(J).

Shri Chaman Singh,
S/o Late Shri Ram Nath,
Working as Asstt. Communication Officer,
in the Office of DGCA, and
residing at D-14,
INA Colony,
New Delhi- 110003. Applicant.

By Advocate Shri S.C.Luthra along with Shri O.P.
Khokha

Versus

1. Union of India
through Secretary,
Ministry of Civil Aviation,
Rajiv Gandhi Bhawan,
Safdarjang Airport,
New Delhi - 110003-

2. Director General of Civil Aviation,
Technical Centre,
Opposite Safdarjang Airport,
New Delhi - 110003. Respondents.

By Advocate Shri M.K.Gupta .

JUDGMENT

By Hon'ble Mr. S.R.Adige, Member(A)

In this application, Shri Chaman Singh, Asstt. Communication Officer, Directorate General Civil Aviation, New Delhi has impugned the order dated 22.4.94 (Annexure- A1 and A2); the order dated 23.6.94 (Annexure-A3) and the letter dated 23.5.95 (Annexure-A4) drawing up departmental proceedings against him; and for opening the sealed cover in respect of his promotion.

2. Shortly stated, after the formation of the National Airports Authority India (NAAI) the applicant was on statutory deputation with that authority w.e.f.

1.6.86, because Section 13(3)NAA Act, 1986 provided that employees holding any office under the DGCA relevant to the functions of the authority were to be treated on deputation with the authority. While posted with the NAA he was issued a charge sheet for major penalty vide Memo dated 4.9.90 (Annexure-A5) alleging unauthorised absence from duty from 27.3.87 to 22.6.88 and again from 24.5.89 till 4.9.90 and unauthorised absences from duty on several other occasions during the intervening period as well. Subsequently the applicant was repatriated back to his parent department on 4.10.91. No headway appears to have been made in the departmental enquiry against the applicant while he was on deputation to the NAA, but after his repatriation back to his parent department, they decided to pursue the D.E. by appointing an Enquiry Officer vide orders dated 22.4.94 (Annexure-A1 and A2); aprising the applicant that the departmental proceeding could be continued on the basis of the NAA's charge sheet vide Memo dated 23.6.94(Annexure-A3) and rejecting his representation against the same vide letter dated 23.5.95(Annexure-A4).

3. In this connection, the applicant has invited attention to the contents of letter dated 5.9.94 from the Director of Personnel, NAAI addressed to the DGCA, a copy of which is taken on record. In that letter it was stated that since the applicant was no longer on the rolls they had no interest in the disciplinary proceedings instituted against him based on the charge sheet issued to him during his deputation with them, and the decision whether or not to continue the same could be taken by the DGCA itself as considered appropriate. The applicant contends that as the alleged misconduct for which he was charge sheeted was committed while the applicant was on deputation to

NAAI and they themselves are not interested in pursuing the matter, now that this deputation has ended and he has returned to his parent department, that department cannot proceed ahead on the basis of that charge sheet, in terms of GOI's decision below Rule 20 CCS(CCA) Rules, 1955. It is asserted that the implication of the above decision is that an inquiry can be conducted only by the authority which issued the charge sheet and only that authority is competent to recommend to the parent department the proposed action on the basis of the inquiry.

4. We are unable to accept the applicant's contentions. The decision below Rule 20 relied upon by the applicant refers to a State Govt. servant whose services were borrowed by the Central Govt. and have since been replaced at the State Govt.'s disposal. In such cases this decision provides that the Ministry/Department of the Central Govt. concerned may complete such preliminary inquiry as may be considered necessary and forward the relevant records to the State Govt. for instituting departmental proceedings and further necessary action. That decision is not relevant either on facts or by implication to the present case where the applicant who is a Central Govt. servant was on deputation to the NAAI when he was charged with certain acts of misconduct. The applicant in his rejoinder (Page 1) has categorically stated that he does not challenge the charges, but only the competence of the DGCA to continue the inquiry on the basis of the charge sheet issued by the NAAI.

5. When the applicant who is a Central Govt. servant is charged with certain acts of misconduct while on deputation, and is subsequently repatriated back to his parent department, without the departmental inquiry on the basis of those charges being conducted/completed,

and upon the applicant's repatriation the Borrowing Authority loses interest in the D.E., nothing precludes the Central Govt. as the applicant's employer from taking up the D.E. on the basis of those charges, more particularly when the applicant himself categorically states that he does not challenge the charges. If we were to allow the OA and interdict the DE at this stage, we would be aborting an enquiry into charges against the applicant which he himself does not challenge.

6. Under the circumstances, while dismissing the prayer for interdicting the departmental proceedings against the applicant at this stage, we direct the respondents to conclude these proceedings within 6 months from the date of receipt a copy of this judgment and thereafter open the sealed cover. This OA is disposed of accordingly. No costs.

A Vedavalli

(DR.A.VEDAVALLI)
MEMBER (J)

S.R.Adige
(S.R. ADIGE)
MEMBER (A).

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