

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.210/96

NEW DELHI, THIS THE 9TH DAY OF NOVEMBER, 1999.

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri R.K.Ahooja, Member(A)

Shri Jag Mohan Bhandari,
S/o late Shri R.S.D.Bhandari,
R/o T-7, Uttam Nagar,
New Delhi-110059

.....Applicant

(APPLICANT IN PERSON)

VS.

1. Union of India
through the Secretary,
Ministry of Defence,
Government of India,
South Block, D.H.Q.Post Office,
New Delhi-110011.
 2. Smt. Mala Srivastava,
Joint Secretary (Trg.) and
Chief Administrative Officer,
Ministry of Defence
C-II Hutments,
Dalhousie Road,
DHQ Post Office,
New Delhi-110011
 3. Shri H.M.Malik
Senior Administrative Officer,
CAO/Q-1 (Quarterming Office)
Office of the Joint Secretary(Trg)
and Chief Administrative Officer,
C-II Hutments
Dalhousie Road, D.H.Q. Post Office,
New Delhi-110011
-Respondents

(BY ADVOCATE SHRI S.M.ARIF)

ORDER (ORAL)

R.K.AHOOJA, MEMBER(A):

The applicant, an Assistant in the Department was posted as a Cashier with effect from 26.5.1992 and was relieved from this duty on 28.12.1992. With respect to the period of his officiation as Cashier, he was served with a chargesheet under Rule 16 of the CCS(CC&A), 1965 for misplacing certain documents including the cash register as well as the daily payment register relating to transaction between October 1991 to 30.4.1992 and 4.4.1992

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to 26.4.1992 respectively. An additional charge against him was that he had made false allegations against his senior officers in respect of certain financial irregularities. After considering his reply, the disciplinary authority held the charge proved and inflicted the punishment of stoppage of increments of pay for two years without cumulative effect.

2. The contention of the applicant is that he had been asked to take over when the previous cashier was not present to hand over the charge. No proper handing taking over of documents had taken place and the documents in question were never in his possession. He further states that he had made a complaint regarding certain irregular entries made by the previous cashier whereafter the audit party had also come to check the accounts. During the course of audit inspection, it was found that certain documents were not available and he had duly reported this matter to the Drawing and Disbursing Officer who was also the Vigilance Officer of the Department. He submits that his report regarding wrong entries made by the previous cashier was correct but since the Drawing and Disbursing Officer-cum-Vigilance Officer was thereby himself implicated, he got the disciplinary proceedings initiated against him. The applicant, therefore, contends that there is no evidence against him as the documents were never handed over to him and further that the inquiry against him was the result of mala fide on the part of the Drawing and Disbursing Officer-cum-Vigilance Officer.

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3. The case of the respondents is that even though no formal handing over and taking over had taken place, nevertheless during the course of business, the applicant had been handling the documents in question and he was, therefore, responsible for their loss. They have also strongly contended that the allegation regarding mala fide on the part of the Drawing and Disbursing Officer-cum-Vigilance Officer are baseless as according to the respondents, the said officer was not involved with the disciplinary proceedings.

4. We have heard the applicant in person and Shri Arif, learned counsel for the respondents. The scope for interference in such an inquiry for the Tribunal is limited and is confined only to the question whether the applicant has been afforded proper opportunity to show cause, whether the order of the disciplinary authority is the result of mala fide or that there is no evidence on the basis of which the impugned order could have been passed. We find that the proceedings which were initiated under Rule 16 of the CCS(CC&A) Rules were properly conducted inasmuch as the applicant was given full opportunity to make his representation. The order of the disciplinary authority is also a speaking order and takes into account the points raised by the applicant. In so far as the question of malafide is concerned, we do consider that merely because the Vigilance Officer happened to be a Drawing and Disbursing Officer he would have been responsible for any wrong entries in the cash book and would thus be induced to initiate disciplinary proceedings against the applicant. It is even now the case of the respondents that though there was a mistake

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made by the previous cashier in the entries, there was no short-fall of payment as the full amount was discharged through a cheque.

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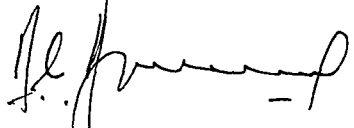
5. We are, therefore, left only with the question as to whether there was any evidence against the applicant on the basis of which the disciplinary authority could have come to the impugned conclusion. We find that the documents in regard to the daily disbursement was in the possession of the applicant even though he contends that at the time of transfer on 28.12.1992 he had duly handed over the documents to his successor. We have on the other hand, the applicant's own submission that the audit party came to check the records and that he could not show the relevant documents to them as they were not available. Further in so far as the cash book is concerned even though it is contended by the applicant that the same had been closed on 28.4.1992 and a fresh cash book was opened with effect from 1.5.1992, a reference to previous cash book has to be consistently made to compare the fresh payment. In any case if the applicant had not received the cash book and the daily disbursement slip, it would have been normally expected that he would have immediately reported the matter to the higher authorities. It is the applicant's case that he had done so but admittedly this was done only in September 1992 when the audit party had already been called in. In such cases, we are not concerned with the proof as is necessary in a criminal case. Since the daily disbursement register was available with the applicant during the period of his tenure as cashier and further considering the fact that the cash book which is alleged to have been lost by him pertaining


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to the period immediately before his take over, it is possible to reach the conclusion that the documents in question had been lost by him.

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6. In the light of the above discussion, we find no ground for interference in this case. Accordingly, the O.A. is dismissed but without any order as to costs.


(ASHOK AGARWAL)
CHAIRMAN


(R.K. AHOOJA)
MEMBER(A)

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