

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

13

O.A. No.264 of 1996

Dated this 8th day of December, 1999

HON'BLE MR.JUSTICE ASHOK AGARWAL, CHAIRMAN  
HON'BLE MRS. SHANTA SHASTRY, MEMBER (A)

Chandeshwar Mehto  
S/o Shri Bihari Mehto  
R/o 1706, Krishi Kunj  
Inderpuri  
Neew Delhi.

... Applicant

(By Advocate: Shri S. Bisaria)

Versus

1. Lt. Governor Delhi  
Through Chief Secretary  
Govt. of N.C.T. Delhi  
Delhi.

2. Director  
Social Welfar Department  
Delhi Administration  
Govt. of N.C.T. Delhi  
I.P. Estate  
Delhi.

... Respondents

(By Advocate: Shri Surat Singh)

O R D E R (Oral)

Mrs. Shanta Shastri, M(A):

The applicant who was a Jeep Driver under the Department of Integrated Child Development Scheme (ICDS) of the Department of Social Welfare, has been removed from service as a result of a departmental enquiry conducted against him on 10.7.1987. The brief facts are as follows:-

2. The applicant had joined as Caretaker in the Department of ICDS and was promoted as Driver on 10.6.1983 on ad hoc basis. While functioning as a Jeep Driver on 1.7.1983 his jeep met with an accident at about 12.05 a.m. Since the accident

resulted into a death of a person, FIR was lodged against the applicant and he was put to criminal trial for committing the said offence. The applicant was finally acquitted of all the charges by the competent criminal court, i.e. Metropolitan magistrate, Delhi by judgment dated 19.9.1994.

3. In the meanwhile, the respondents held a departmental enquiry against the applicant. The applicant was placed under suspension vide order dated 3.8.1983. The charges under the departmental enquiry were (i) negligence in discharging of official duties resulting in road accident and (ii) wilful absence from duty. According to the enquiry report a copy of which was produced by the learned counsel for the respondents, since the applicant confessed his guilt, the charge of negligence stood established against the applicant. The Enquiry Officer also held him guilty for not disclosing the fact of his having remained in judicial lock up and for being absent from duty from 1.7.1983 to 15.9.1983. Based on the findings in the enquiry report the disciplinary authority passed order of his removal from service and also required him to make good the payment of loss amounting to Rs.15,000/- already paid to the family of the deceased by the Government as per the orders of the court.

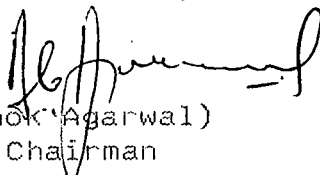
4. The contention of the learned counsel for the applicant is that since the charges were the same in the criminal case and in the disciplinary enquiry and as he was acquitted by the court, he cannot be punished under the departmental enquiry. For this he relies upon the judgment of the Hon'ble Supreme Court (AIR 1999 SC.1416) in the case of Captain M. Paul Anthony Vs Bharat Gold Mines. The applicant, therefore, is seeking the setting aside of the order dated 10.7.1987 terminating his services and reinstatement with all consequential benefits.

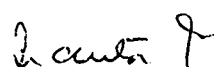
5. The learned counsel for the respondents, however, avers that the charges are not actually the same in the departmental enquiry as in the court proceedings. As already pointed out the main charge in the departmental enquiry was about negligence in the discharge of official duties and wilful absence from duty. These were not the charges in the criminal case. Therefore, the Supreme court judgment cited by the learned counsel for the applicant cannot be said to be applicable in this case.

6. We have perused the enquiry report and we find that the applicant has himself confessed to the guilt and the charges have been proved. Immediately after the acquittal by the court, the applicant made a representation to the department

of ICDS to reinstate him in the light of the acquittal by the court. However, after considering the representation in detail, the competent authority decided on 10.11.1995 that there is no justification at this stage to interfere with the orders dated 10.7.1987 of the disciplinary authority and rejected the request of the applicant.

7. We are satisfied that the charges in the departmental enquiry were different than the charges in the criminal case and the findings of the Enquiry Officer have been based on the confession of guilt by the applicant himself. Therefore, we do not find any merit in the application. The OA fails and is accordingly dismissed. We do not order any costs.

  
(Ashok Agarwal)  
Chairman

  
(Mrs. Shanta Shastri)  
Member(A)