

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

NEW DELHI

(12)

O.A. No. 1134/97

Decided on 8.10.1998

Shri J.L. Bindra Applicant
(By Advocate: Shri S.M. Rattanpaul)

Vs.

Union of India & Ors. Respondents
(By Advocate: None)

CORAM

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

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(S.R. ADIGE)

Vice Chairman (A)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 1134/97

New Delhi: Dated this the 8th day of October, 1998

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

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

Shri J.L. Bindra,
S/o Shri Rattan Singh Bindra,
R/o GH.8/112, Paschim Vihar,
Delhi - 041

.... Applicant.

(By Advocate: Shri S.M. Rattanpaul)

VERSUS

1. Union of India through
the Secretary to the
Govt. of India,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.
2. The Chief Engineer, NDZ-II,
Central Public Works Department,
Nirman Bhawan,
New Delhi.
3. The Superintending Engineer,
Central Store Circle,
Central Public Works Department,
Netaji Nagar,
New Delhi

... Respondents.

(None appeared)

ORDER

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

Applicant impugns the chargesheet dated 13.2.91 (Annexure-A1), the Inquiry Officer's report dated 20.9.95 (Annexure-A2); the penalty order dated 27.10.95 (Annexure-A3) and the appellate order dated 4.4.97 (Annexure-A4) and seeks a declaration that he is exonerated of the charges, with consequential benefits.

2. Applicant's case is that in 1983 while working as Foreman, Mechanical Workshop, CPWD,

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Netaji Nagar, New Delhi he availed of LTC for the block years 1982-85 for his two sons from Delhi to Kanyakumari and back. He claims that his two sons left for Kanyakumari by Bus No. MNP-8024 arranged through M/S Southend Travels (Regd) on 11.6.83 and after visiting it, reached back to Delhi on 2.7.83. He took an advance of Rs.1000/- for his sons' journey and submitted a total claim of Rs.2496/- and after adjusting the advance, Rs.896/- was paid to him. However after 4 years, on 14.8.87 a chargesheet was served upon him (Annexure-A5) alleging that on investigation it was found that the journey performed by his sons was fake and money had been pocketed by applicant on the basis of fake and forged documents and proposing to take action against him under Rule 16 CCS(CCA) Rules. Applicant states that he did not have any records going back 4 years regarding the matter, he approached the Disciplinary Authority who assured him that if he deposited the amount of full claim along with interest thereon, no action would be taken against him, whereupon in reply dated 7.9.87 (Annexure-A6) to the chargesheet dated 7.9.87 he said he was not in a position to produce any document relating to the journey which took place over 4 years ago, and was prepared to deposit the entire amount of claim with interest. He states that upon this, the Disciplinary Authority in his letter dated 17.12.87 (Annexure-A7), ordered him to deposit Rs.5808/- (Rs.1600/- as advance, plus Rs.896/- paid to him as his claim, plus Rs.1312/- as penal interest which he did on 31.12.87, on which the Disciplinary Authority in his letter dated 30.4.88 to S.E.

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(vigilance) CPWD informed the latter that he had closed the case from his end. Applicant states that however by ^{Memo dated} 20.12.90 with the change of incumbent as Disciplinary Authority, the earlier chargesheet dated 14.8.87 was withdrawn on the ground that when it was issued, certain documents to prove the charges had not been received by the department and another chargesheet dated 20.12.90 (Annexure-A9) for a major penalty under Rule 14 CCS (CCA) Rules would have to be issued. Applicant states that on 19.1.91 he replied that he had already been punished for the same allegations (Annexure-A10), but on 13.2.91 another chargesheet was issued to him, this time under Rule 14 CCS(CCA) Rules relating to the same incident, along with supporting documents (Annexure-A1). Applicant states that he replied to the said chargesheet denying the same, but the Disciplinary Authority appointed an Enquiry Officer on 11.3.91, and on his transfer another E.O. was appointed and on his transfer yet another E.O. was appointed on 26.9.93 who completed the enquiry against him on 20.9.95 (Annexure-A2) Applicant states that the Disciplinary Authority by his impugned order dated 21.10.95 (Ann-A1) imposed the penalty of reduction of pay by two stages equal to two increments last drawn i.e. from 2050/- to Rs 1950/- in the pay scale of Rs 1400-2300 with cumulative effect against which applicant submitted an appeal on 24.11.97 (Annexure-A13) which was rejected by non-speaking and non- reasoned order on 4.4.97 which did not issue over the appellate authority's signature but was communicated to applicant on 24.4.97

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(Annexure-A4) against which the OA has been filed.

Meanwhile applicant has retired on superannuation on 30.11.95.

3. Despite several opportunities given to respondents, they failed to file their reply. We have heard applicant's counsel Shri Rattanpaul. None appeared for the respondents. Shri Rattanpaul has also filed written submissions which are on record.

4. We have given the matter our careful consideration.

5. The charge Memo dated 14.8.87 was for imposition of a minor penalty under Rule 16 CCS(CCA) Rules, minor penalties being those defined under Rule 11(i) to iv) CCS(CCA) Rules. Applicant was informed in writing of the proposal to take action against him, and of the imputation of misconduct on which it was proposed to take action, and was given opportunity to represent against such proposal in accordance with Rule 16(1)(a) CCS(CCA) Rules. On receipt of applicant's representation, the Disciplinary Authority communicated his decision to him vide Office Memo dated 17.12.87 (Annexure-A-VII) imposing the punishment contained therein, which was in consonance with Rule 11(iii) CCS(CCA) Rules. That the Disciplinary Authority, after imposition of the aforesaid punishment treated the matter as closed, is manifest from his letter dated 20.4.88 addressed to SE(Vigilance) (Annexure-A-VIII). The penalty order was communicated to applicant in accordance with Rule 17 CCS(CCA) Rules.

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QOI decision No.1 below Rule 17 states that the decision taken by the Disciplinary Authority is a judicial decision and once it is arrived at it is final. As applicant himself did not appeal against the order dated 17.12.87, it is not clear how the order dated 20.12.90 came to be passed, unless it was in exercise of the powers of revision contained in Rule 29 CCS(CCA) Rules, read with QOI's decision No.2 below aforesaid Rule 29 relating to scrutiny of punishments by Vigilance Officers.

6. Unfortunately respondents had not cared to file their reply despite several opportunities given to them, and the appellate's order dated 4.4.97 is also silent on the point despite this being one of the specific grounds taken in the appeal (para 8 of appeal). This appellate order is cryptic and bald and besides not discussing how the orders dated 20.12.90 came to be passed, also does not discuss the other grounds taken in appeal.

7. QOI's instruction No.1 below Rule 15 CCS (CCA) Rules requires orders in disciplinary proceedings, including appellate orders, to be self contained, speaking and reasoned orders and issued over the signature of the appellate authority. The appellate order dated 4.4.97 besides not being a speaking, self contained and reasoned order does not discuss any of the grounds taken by the applicant in his appeal and has not been issued over

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the signature of the appellate authority, and is hence not sustainable in law.

8. Under the circumstance without interfering with the Disciplinary authority's order dated 27.10.95 at this stage, the appellate order dated 4.4.97 is quashed and set aside. The case is remanded back to the appellate authority to pass a self contained, speaking and reasoned order on applicant's appeal, discussing each of the grounds taken therein in accordance with rules and instructions, as expeditiously as possible and preferably within 3 months from the date of receipt of a copy of this order, after giving applicant a reasonable opportunity of being heard in person for which applicant should also cooperate. No costs.

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(DR. A. VEDAVALLI)
MEMBER(J)

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(S. R. ADIGE)
VICE CHAIRMAN (A).

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