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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA NO. 1287/97

New Delhi, this the 31st day of July, 2000

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN (J)
HON'BLE MR. GOVINDAN S. TAMPI, MEMBER (A)

In the matter of:

Sh. Bhagwan Dass
S/o Sh. Jeet Ram,
working as LDC in MHA,

and R/o G-88, Sarai Kalekhan,
Nizamuddin,
New Delhi-110013. Applicant
(By Advocate: Sh. S.C. Luthra and
Sh. O.P. Khokha)

VS.

Union of India through

The Secretary,
Ministry of Home Affairs,
North Block,
New Delhi-110001. Respondent
(By Advocate: Sh. R.V. Sinha)

ORDER (ORAL)

By Hon'ble Sh. V. Rajagopala Reddy, Vice Chairman (J)

The applicant was working as LDC in the Ministry of Home Affairs. While he was working as such, a charge memo dated 24.4.99 was issued in which it was alleged that he had submitted a false medical claim for Rs. 5363.95 for himself and his family, by a private medical practitioner, during the strike of CGHS from 20.7.87 to 30.7.87. He denied the charges. An enquiry was conducted and on the basis of the enquiry report, the disciplinary authority by its order dated 14.8.91, imposed the penalty of withholding promotion for a period of 5 years with retrospective effect from 1.4.88. He filed a revision petition against the said order. The revisional authority quashed the disciplinary authority's order and remitted the case back to the disciplinary authority under Rule 29(1) of CCS (CCA) Rules, 1965, to supply the

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enquiry officers report and thereafter hold the fresh enquiry in accordance with law. Accordingly, a copy of the enquiry officer's report was supplied to the applicant and on considering the applicant's representation, the enquiry officer came to the tentative conclusion of imposing the penalty of reduction of pay by three stages for a period of 2 years. The applicant made a representation against the said penalty. Thereafter the disciplinary authority confirmed the proposed penalty by impugned order dated 16.9.95. The appeal filed against the said order was rejected by order dated 2.8.96. Hence the OA.

2. Counsel for applicant submits that the action of the enquiry officer in examining the additional witnesses and in not supplying the relevant documents is not consistent with the rules. The applicant suffered prejudice in his defence. He also contends that the order of the disciplinary authority is cryptic and it does not show whether it agreed with the findings of the enquiry officer or not. The appellate authority's order is also cryptic. It is also contended that there was a delay from 1989 to 1996 in holding the enquiry which caused delay in his promotion. Learned counsel for the respondents, however, submits that the charge memo was issued immediately after the CBI report was made available in 1989 and hence there is no delay in the disciplinary proceedings. He also refuted the contentions raised with regard to the other aspects.

3. We have given careful consideration to the contentions raised by the parties.

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4. Regarding the contention as to delay, we are not satisfied that there is any justifiable ground. We do not see any delay in this case. The claim made by the applicant pertains to 1987 and as the matter was entrusted to the CBI and the report was submitted by it in 1989, the charge memo was issued to the applicant in 1989 itself. The delay in the impugned order occurred only because the revisional authority remitted the case back in 1991 and thereafter the fresh enquiry has to be held against the applicant. We reject the contention.

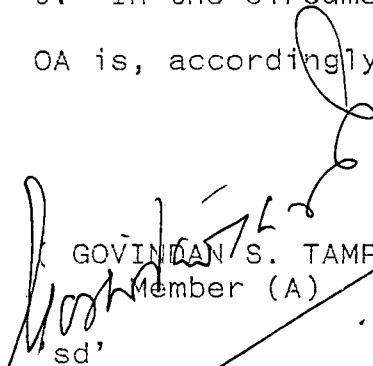
5. We have seen from the charge, that the prosecution relied upon number of documents and witnesses in this case. It is true that the main witness in this case was Dr. Vijay K. Batish, MBBS but he has not supported the case of the prosecution. In view of the key witnesses has turned hostile prosecution had necessarily examined additional witnesses in this case, hence witnesses 14, 15 & 16 were examined. The enquiry officer, relying upon the entire evidence, found that the charge of making false claim was established. The applicant was, however, exonerated as regards the second charge. The disciplinary authority considering the entire material, came to the conclusion that the applicant was guilty of the charge of making false claim. The contention that it is not clear from the order of the disciplinary authority whether the disciplinary authority had accepted the findings of the enquiry officer or not is not sustainable. It is nowhere stated by the disciplinary authority that he has disagreed with the findings of the enquiry officer. He has imposed punishment holding that the applicant was guilty of the charge. Since he is agreeing with the findings of the enquiry officer it was not necessary to discuss the entire evidence on record and give his own reasons.

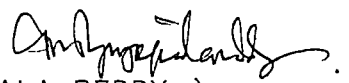
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5. An allegation is made that the CBI report was not supplied to the applicant. The report of the CBI it is stated was that the disciplinary authority was asked to hold its own enquiry. Nothing is brought to our notice that the enquiry officer has relied upon the CBI officer's report and that any adverse comment was made in his report. Hence we do not find any relevance in the CBI report in this case. The appellate authority also has considered as to the examination of the additional witness. We find that no prejudice was caused to the applicant as he was given full opportunity to cross-examine the additional witnesses.

6. In the circumstances, we do not find any merit in this OA. OA is, accordingly, dismissed. No costs.


GOVINDAN S. TAMPI)
Member (A)
sd'


(V. RAJAGOPALA REDDY)
Vice Chairman (J)