

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1868/97

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

New Delhi, this the 26th day of May, 2000

HC Budh Ram s/o Sh. Bhajan Lal
r/o Block-I, Plot No.1262-63
Jhangir Puri, Delhi - 33. ... Applicant

(By Shri V.P.Sharma, Advocate)

Vs.

1. N.C.T. of Delhi through
The Chief Secretary
Old Secretariat
Delhi.
2. The Commissioner of Police
Delhi Police Headquarters
I.P.Estate
New Delhi.
3. The Sr. Addl. Commissioner of Police
(A P & T) Delhi, Police Head Quarters
MSO Building, I.P.Estate
New Delhi.
4. The Dy. Commissioner of Police
III Bn., DAP, Delhi. .. Respondents

(By Shri R.K.Singh, Junior counsel of Shri Anil K. Chopra, Advocate)

.. O R D E R (Oral)

By Reddy. J.

The applicant while serving as Head Constable in Delhi Police, was posted as Mess Manager in Mess No.1, IIIrd Battalion, DAP. He was served with a charge sheet dated 29.1.1996, alleging that he failed to supervise the preparation of food properly as the food was found to be substandard and unhygienic. He was also alleged to have committed some financial irregularities. As the applicant denied the charges, a departmental enquiry was conducted against him and the enquiry officer found him guilty of the charges. The disciplinary authority, agreeing with the findings of the enquiry officer, imposed punishment by order



dated 20.9.1996, of forfeiture of one year's approved service for a period of five years. The appeal filed by him was rejected. The applicant filed the present OA questioning the above order of punishment.

2. The learned counsel for the applicant, Mr. V.P.Sharma contends that the charges are vague and general in nature. It was not pointed out clearly the precise charge which he was required to meet. It was also alleged that no imputations or other statement of particulars of the charge were issued accompanying the memo of charge. It is, therefore, contended that the entire enquiry is vitiated. It is further contended that there was no evidence in this case in support of the allegations.

3. The learned counsel for the respondents, however, submits that clear and specific allegations were made against him and hence the charge cannot be said to be vague. It is also submitted that enquiry officer, considering the evidence of PWs 1 to 3 and the defence witnesses found, as a question of fact, that the applicant was guilty of the charge and hence the said findings cannot be entertained by the Tribunal in the judicial review jurisdiction.

4. We have given anxious consideration to the facts of the case and the arguments advanced by the learned counsel for the applicant and the respondents. In order to appreciate the contentions raised, it is necessary to notice the summary of allegations dated 29.1.1996:

-3-

11

"It is alleged against HC. Budh Ram No.2098/DAP that while posted as Mess Manager, Mess No.1 of III Bn., DAP he did not perform his duties properly and failed to supervise preparation of food as members of Mess No.1 complained to Sh. Shibesh Singh ACP/Adj. III Bn. DAP about sub-standard food served in the mess to them. On 5.7.95 at 8.00 AM during surprise inspection of the mess by the ACP/Adj. III Bn. The ACP/Adj. first inspected the food that was served to the mess members. One of the mess number present in the mess at that time showed him worms crawling out of the salad. The quality of cucumber served was very poor. The ACP/Adj. then inspected the Dal. It was reportedly evident that the prescribed weight of pulses was not put in the preparation. The quality of the Chapati served was also reportedly very poor. Most of the Chapatis were either half backed or burnt.

On further enquiry made by Sh. Shibesh Singh, ACP/Adj. it was revealed that over since HC. Budh Ram No.2098/DAP had taken over the charge of Mess No.1 the quality of food was reportedly consistently poor. Further, many mess members reportedly pointed out certain financial irregularities. The Members were charged, for meals which they had not taken and about which they had given prior notice to mess manager that they will not be taking a particular diet on a given date.

HC. Budh Ram, No.2098/DAP did not bother to prepare monthly goswara of the Mess Accounts. When he was removed from the duties of Mess Manager and another Head Constable was deputed in his place the account books of the Mess handed over to the new incumbent could not be tallied. Numerous irregularities were found in the Accounts Books.

In the past also similar irregularities/negligence were found by Sh. Shibesh Singh, ACP/Adj. against HC. Budh Ram, No.2098/DAP during surprise check on 25.5.1995. He was accordingly issued with a SCN for Censure vide this office No.3873/HAP-III Bn. DAP, dated 25.5.1995 which was later on confirmed vide order No.154-175/HAP-III Bn. DAP, dated 3.1.96."

5. The main charge against the applicant appears to be that as a Mess Manager he was not performing his functions properly. These allegations, in our view, are not specific, clear and precise. Except one instance on 5.7.95, all the other allegations are not specific. Again no specific instances are given over a period of time, regarding the financial irregularities, the mess accounts, etc.

^{thus}
The applicant ^{will} be handicapped in defending himself ^{and cross examining} the witnesses for prosecution. The

learned counsel for the respondents, however, relies upon his counter affidavit to show what the specific instances are. In our view, the allegations should be mentioned in the charge itself. Specific instances in each category of charge should have been mentioned and the applicant should be asked to answer the same. Law is well settled that the delinquent would be seriously prejudiced if the charge is vague and ^{or in such a case} ^{the} enquiry would be vitiated.

6. In Transport Commissioner, Madras-5 Vs. Thiru A.Radha Krishna Moorthy, JT 1994(7) SC 744, the Supreme Court holding that the charges were not specific and clear and that they did not point out clearly the precise charge with which the applicant was charged and was expected to meet, confirmed the order of the Tribunal which quashed the charge and the enquiry. This case is squarely covered by the observations of the Supreme Court. In the circumstances, holding that the charges are vague and caused serious prejudice to the applicant in his defence, the charges and the impugned orders of disciplinary authority and the appellate authority are quashed.

7. It is however open to the disciplinary authority to issue a fresh charge containing definite and clear allegations and proceed with the enquiry in accordance with law. The OA is accordingly allowed. No costs.

Shanta S

(SMT. SHANTA SHAstry)
MEMBER(A)

/RAO/

Om Jayaramulu

(V.RAJAGOPALA REDDY)
VICE CHAIRMAN(J)