

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.2354/97

(20)

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

New Delhi, this the 28th day of July, 2000

Shri Bhew Raj Singh
N-613, Sewa Nagar
New Delhi - 110 003. Applicant

(By Shri P.I.Oommen, Advocate)

Vs.

1. Union of India through
The Secretary
M/o Planning
Govt. of India
Sardar Patel Bhawan
Parliament Street
New Delhi - 110 001.
2. The Deputy Secretary (Admn.)
Department of Statistics
Sardar Patel Bhawan
Parliament Street
New Delhi - 110 001.
3. Shri D.S.Sethi
Under Secretary (Admn.II)
Department of Statistics
Sardar Patel Bhawan
Parliament Street
New Delhi - 110 001. Respondents

(By Shri K.C.D.Gangwani, Advocate)

O R D E R (Oral)

By Justice Rajagopala Reddy:

The applicant was a Peon in NSSO Coordination & Publication Division of the Department of Statistics. He was found in an intoxicated state on 8.4.1993 while on duty and creating nuisance in the office premises using abusive language. He also misbehaved with ladies. He was proceeded against departmentally. On the same date a report was also lodged in the Police Station and he was imposed a fine of Rs.100/- as he has admitted the guilty under Section 92, 93 of the Delhi Police Act. An enquiry

(Signature)

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officer was appointed who found the applicant as guilty. Agreeing with the findings of the enquiry officer, he was removed from service by order dated 30.5.1997. The appeal filed by the applicant was rejected. Hence the OA.

2. It is contended by the learned counsel for the applicant that neither oral nor documentary evidence was adduced in support of the charge. Hence, this is a case of 'no evidence'. The learned counsel for the respondents however refuted the contention.

3. We have heard the counsel for the applicant and the respondents. We have given careful consideration to the contentions. Admittedly, no witness has been examined in the enquiry. Purportedly, relying upon the documentary evidence, the enquiry officer concluded that the charge has been proved. It is stated in the enquiry officer's report that the applicant was arrested by the police and he was taken to the RML Hospital and got medically examined and medical examination report showed that he consumed alcohol and was fined with Rs.100/- by the duty magistrate. He concluded in the enquiry report that the above documents clearly proved misconduct regarding his misbehaviour. The disciplinary authority in its final order dated 30.5.1997 at Paragraph 5 mentioned that the enquiry officer had mainly relied upon report of the SSF, medical report issued by the Ram Manohar Lohia Hospital and the order of the Duty Magistrate imposing a fine of Rs.100/- and on the basis of these documents and also other listed documents the enquiry officer held that the charge of

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intoxication was proved. It is not disputed by the learned counsel for the respondents that medical report/certificate was not supplied to the applicant. It is not a listed document also. The Doctor was not examined. In fact no witness has been examined by the enquiry officer or by the disciplinary authority. It is also not disputed that the applicant was fined for the offences under Section 92 and 93 of Delhi Police Act, i.e., public nuisance and not on account of being found in an intoxicated condition. Thus in the departmental enquiry there was no evidence to prove that the applicant was found in an intoxicated state while he was on duty. This is a case where the disciplinary authority could have examined number of witnesses to prove the charge. But for his own reasons no witnesses were examined. On the basis of this evidence the disciplinary authority imposed the severe penalty of removal. This is a case, in our view, where there is absolutely no evidence whatsoever, in support of the charge. It is true that if there is 'any evidence' in support of the charge which has been accepted by the disciplinary authority, we would not be justified in interfering with the order as we are only exercising the judicial review jurisdiction. But in this case no evidence or any other material was found against the applicant. In the circumstances, the OA deserves to succeed.

4. The Learned counsel for the respondents however submits that the department would be allowed to reopen the matter and continue the enquiry. But we are afraid that the enquiry has already been held against him and only on the ground that no evidence

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was found the application is allowed, but not on any technical grounds of flaw in the enquiry, hence the contention of the submission cannot be accepted.

5. The OA is allowed and the impugned order is quashed. The respondents are directed to reinstate the applicant immediately and pay 50% back wages within a period of three months from the date of receipt of a copy of this order. No costs.

Shanta Shastray

(SMT. SHANTA SHAstry)
MEMBER(A)

V.Rajagopala Reddy

(V.RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

/RAO/