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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

R.A.No.182/2000

IN

O.A.No.362/97

New Delhi: this the 31st day of August, 2000.

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

HON'BLE MR.KULDIP SINGH, MEMBER (J).

Dr. R.R.Kishore,

S/o Late Shri B.R.Kishore,

R/o D-II/145, Kidwai Nagar (West),

New Delhi-23,

Chief Medical Officer Incharge,

CGHS Dispensary,

Andrewsganj,

.....Applicant.

New Delhi

(By Advocate: Shri B.S.Jain).

Versus

1. Union of India
through Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi.
2. Sh.P.P.Chauhan,
Former Secretary to
the Govt. of India,
Ministry of Health and Family Welfare,
Nirman Bhawan,
New Delhi.

(By Advocate: Shri P.H.Ramchandani)

ORDER

Mr. S.R.Adige, VC(A):

Applicant in this RA is seeking a review of the judgment/orders passed by this Bench on 31.5.2000 in OA No.362/97 filed by the applicant. In the OA applicant had challenged respondents' order dated 28.10.96 placing him under suspension and had also challenged another order dated 12.12.96 whereby departmental proceedings were initiated against him and had prayed for quashing of the said orders. Tribunal

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vide order under ^{challenge} ~~review~~ had disposed of the OA by making the interim order dated 5.5.97 staying the operation of the suspension order dated 28.10.96 absolute, but holding that the order dated 12.12.96 initiating departmental proceedings against applicant warranted no judicial interference.

2. In the RA, it is contended that there are

- i) certain mistakes/errors apparent on the face of the record;
- ii) other sufficient reasons,

to bring it within the scope and ambit of Order 47 Rule 1 CPC warranting a review.

3. In regard to (i) ^{above,} it has been contended that

- a) there was no materials on record to indicate that applicant attended the conference at Stockholm as a part of his duty in his official capacity as an officer of the GOI as observed by the Tribunal in para 28 of the impugned order dated 31.5.2000. Applicant asserts that he attended the conference in his individual capacity, and not as Govt.'s representative.
- b) In para 29 of the impugned order dated 31.5.2000, the Tribunal was wrong in holding that in the present case disciplinary proceedings could have been initiated against applicant, even without calling for his explanation with regard to his alleged misconduct.

c) There was no materials on record to

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conclude as had been done in para 26 of the impugned order dated 31.5.2000 that the decision to deny permission to applicant to participate in the conference was taken at the level of the Minister.

- d) The Tribunal erred in concluding that the Conference Bureau had granted applicant a Scholarship to participate the conference. Indeed, it was not a scholarship at all, but was only limited to providing financial assistance and hospitality to applicant to enable him to participate in the conference in view of his expertise in the field.
- e) The Tribunal erred in not recognising that the Director General, Health Service was competent to grant applicant permission to participate in the conference.
- f) The Tribunal erred in observing in para 27 of the impugned order dated 31.5.2000 that the U.S. was not mandatorily required to explain why permission to attend the conference was being denied to applicant, or the level or authority at whose direction he was making the request.

As regards (ii) above, it has been contended that

- a) No finding was recorded on the point that the counter had been filed after expiry of the statutory time limit.
- b) It was mandatory on the part of

Respondent No.2 to file a reply specifically denying or admitting each allegation made against him.

- (c) No written authorisation was given by Respondent No.1 to Shri Kanan to file reply.
- (d) No finding was recorded by the Tribunal on applicant's allegation that the disciplinary proceedings were founded on malice. It was necessary on the part of Under Secretary to have informed the applicant of the reasons calling upon him not to proceed to Stockholm to attend the conference.
- (e) The Tribunal should not have given a finding on the correctness of the charges.
- (f) The Tribunal erred in holding that applicant had no enforceable legal right to compel the Ministry to depute him to participate in the Stockholm conference when applicant had never requested the Ministry to depute him.
- (g) In regard to unnumbered MA filed by applicant after hearing of the OA was completed, the Tribunal erred in observing that no notice had been issued on MA and respondents had no opportunity to reply the same.
- (h) No finding was recorded by the Tribunal on applicant's assertion that respondents' denial to him to participate in Seminars/Conferences/Workshop and the consequent prejudice to his career was discriminatory and hence obstructed

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him in discharge of the fundamental duties.

4. We have heard both sides in the matter and have considered these points taken by applicant in this RA carefully.

5. The fundamental question that arises is whether these grounds taken severally or collectively would ^{justify} ~~warrant~~ any change in the conclusions arrived at in our order dated 31.5.2000 which would warrant review of that order.

6. The conclusions in our aforesaid order dated 31.5.2000 are that applicant being a Govt. employee is required to abide by Govt. rules and lawful orders issued by Govt. It cannot be denied that Under Secretary's letter dated 8.10.96 calling upon applicant not to attend the Stockholm conference, was a valid Govt. order and in spite of receipt of that letter which applicant does not deny, he proceeded to attend the Stockholm conference, he admittedly did so at his own risk and responsibility, for which he must be prepared to face the consequences. As pointed out in our order dated 31.5.2000, the parameters of judicial intervention at the stage of framing of charges have been laid down by the Hon'ble Supreme Court in UOI & Ors. Vs. Upendra Singh 1994(27) ATC 200 and applying the ratio of that ruling to the present case, manifestly it cannot be said that the charges framed against applicant are contrary to law, or that despite receiving Govt.'s letter dated 8.10.96, and yet proceeding to attend the Stockholm Conference, ex facie no misconduct can be said to have been made out.


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7. We have also observed in our order dated 31.5.2000 that during the course of the DE, applicant will get full opportunity to defend his conduct and to establish his contention that the proceedings have been initiated against him for malafide and/or ulterior motives. If he is dis-satisfied with the Disciplinary Authority's order he can always file appeal and if he has still any grievance, it is open to him to agitate his grievance before the Tribunal in accordance with law, if so advised.

8. From the foregoing it is clear that the points raised in RA do not ^{justify} ~~warrant~~ any change in the conclusions arrived at in our order dated 31.5.2000 which would warrant review of the aforesaid order.

9. The RA is therefore rejected. Interim order dated 27.6.2000 staying the recording of evidence in the DE, which has been extended from time to time, is vacated.


(KULDIP SINGH)
MEMBER(J)


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

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