

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1112/94

NEW DELHI THIS THE 30TH DAY OF MAY, 1994.

MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN(J)
MR.B.N.DHOUNDIYAL, MEMBER(A)

Shri B.P.Yadav,
S/o Sh.Uday Ram Yadav
R/o Village & P.O.Kapashera,
New Delhi-110 037

APPLICANT

BY ADVOCATE SHRI A.K.BHARDWAJ

Vs.

Union of India through

1. The Secretary,
Government of India
Ministry of Planning
Department of Statistics
New Delhi.
2. The Director,
Government of India
Ministry of Planning
Department of Statistics
National Sample Survey Organisation
(Field Operation Division)
West Block No.8, Wing No.6
Ist Floor, R.K.Puram
New Delhi-110 022.
3. The Chief Administrative Officer
Government of India
Ministry of Planning
Department of Statistics
National Sample Survey Organisation,
(Field Operation Division)
West Block No.8,
Wing No.6,
Ist Floor, R.K.Puram,
New Delhi-110 022.

.... RESPONDENTS

ORDER(ORAL)

The applicant, a Light Motor Vehicle & Scooter Driver, was subjected to disciplinary proceedings under Rule 14 of the CCS(CC&A) Rules, 1965. An enquiry officer was appointed, who submitted his report to the disciplinary authority. The disciplinary authority furnished a copy of the enquiry officer's report to the applicant and gave him opportunity to make his comments thereon. After taking into account the report of the inquiry officer and the explanation offered by the applicant, the disciplinary authority, on 7.1.1993, passed an order of punishment removing him from service. The appellate

authority while maintaining the order of the disciplinary authority modified the order of punishment. He converted the order of removal from service into the order of compulsory retirement from service. The two orders are being impugned in this OA.

2. The gravamen of the charge is that the applicant was incharge of vehicle No.DDV 6548. After duty hours, he was required to place the vehicle in the garage. Instead of doing so, he took away the vehicle for his personal use unauthorisedly without any information/permission out of Delhi of his superior officers/ and the vehicle met with an accident at 11.30 p.m. on 8.4.1991 near Bilaspur Police Station near Gurgaon(Harayana).

3. The enquiry officer went into the matter in detail. It appears that, in spite of due notice, the applicant failed to cooperate in the inquiry at the initial stage. The disciplinary authority has passed a detailed order and recorded a finding that the charge has been brought home to the applicant. The appellate authority too has passed a detailed order examining all the aspects of the matter. On the face of it, we do not find any irrationality or illegality in the two orders.

4. The learned counsel for the applicant has urged the following in support of this OA:

(1) the two authorities took into account the past conduct of the applicant which is not the subject matter of the charge.

(2) the applicant duly informed the authority concerned that he had been kidnapped with the vehicle. He had done so by sending a post card.

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(3) the enquiry officer mis-directed himself.

He confined his attention to the fact that the applicant went out of Delhi.

(4) even though the authorities found the applicant to be an efficient driver they erred in awarding him the punishment aforementioned.

5. We shall deal with these submissions seriatim.

Regarding(1), we have gone through the orders and we find that, while arriving at the conclusion as to whether the charge has been brought home to, the applicant, they acted independent of the past conduct of the applicant. There is a reference to the past conduct. From a reading of the orders of the authorites below, we find that they adverted to the past conduct only for the purpose of justifying the punishment which they proposed to award. A reading of the appellate order indicates that before referring to the past conduct, he summed up his decision like this:

" To sum up, the enquiry report and connected papers clearly demonstrate that Shri Yadav was guilty of extremely grave charge. In considering the gravity of the charge, the penalty of removal from service is found adequate."

Thereafter, he proceeded to look into the past conduct of the applicant. It is ^a trite law that if a judicial or quasi-judicial order is mixed up with relevant and irrelevant factors, irrelevant factors can be severed from the relevant factors and such an order can be sustained by a court or Tribunal.

We are satisfied that the appellate authority ignored the past conduct of the applicant, as referred to above.

Regarding(2).

The two authorities below have not accepted

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the case set up by the applicant that he informed the relevant authority about the incident of kidnapping. It is rather strange that he informed that authority concerned through a post card. There was nothing to prevent him from meeting the officer concerned and informing him of the relevant facts. Be that as it may, we are not sitting as a court of appeal. We do not find any irrationality or irregularity in the order of the authorities.

Regarding (3).

We have seen the inquiry officer's report and we find that it is not a correct reading of the same in the manner in which the learned counsel has asked us now. He has only focussed upon the charge levelled against the applicant. More so, it is a trite law that the report of the inquiry officer is not a binding upon the disciplinary authority. As already indicated, the disciplinary authority applied its own mind independently and arrived at its own conclusion while recording a finding that the charge has been brought home to the applicant.

Regarding (4)

The last contention is that the disciplinary authority, in fact, sat some sort of expert to examine the question as to whether the applicant was an efficient driver. This is not a correct reading of the order of the disciplinary authority. He has candidly referred to the charge and he has accepted the finding of the inquiry officer that in spite of depositing the vehicle in the garage,

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he took away the vehicle unauthorisedly and that vehicle met with an accident in Haryana. Surely, it is not the case of the applicant that it was during the course of his duty that he took away the vehicle outside Delhi to Haryana.

6. We do not find any illegality in the two orders. We are, therefore, unable to grant any relief to the applicant.

7. The OA is dismissed summarily.

B.N.Dhundiyal
(B.N.DHOUNDIYAL)
MEMBER(A)

S.K.Dhaon
(S.K.DHAON)
VICE-CHAIRMAN(J)

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