

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 744/94

199

T.A. No.

7

DATE OF DECISION 26.7.99

Swaroop Singh

....Petitioner

Sh. Shyam Babu

....Advocate for the
Petitioner(s)

VERSUS

Dy. Commissioner of PoliceRespondent
and Ors.

Sh. Vijay Pandita, 1d. counselAdvocate for the
through proxy counsel Sh. Bhaskar Respondents.
Bhardwaj

CORAM

The Hon'ble Sh. V. Ramakrishnan, Vice Chairman (A),
The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

1. To be referred to the Reporter or not? YES
2. Whether it needs to be circulated to other
Benches of the Tribunal? NO.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

Central Administrative Tribunal
Principal Bench

....

O.A. 744/94

(8)

New Delhi this the 26th day of July, 1999

Hon'ble Shri V. Ramakrishnan, Vice-Chairman(A).
Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Swaroop Singh (125/L),
Head Constable,
son of Shri Hari Singh,
Quarter No. 363, 'H' Block,
Police Colony, Ashok Vihar,
New Delhi.

... Applicant.

By Advocate Shri Shyam Babu.

Versus

1. Deputy Commissioner of Police,
Provisioning & Lines,
Tis Hazari,
Delhi.

2. Additional Commissioner of Police,
(Security),
Rashtrapati Bhawan,
New Delhi. ... Respondents.

By Advocate Shri Bhaskar Bhardwaj proxy counsel for
Shri Vijay Pandita.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant has challenged the validity of two orders passed by the respondents dated 15.9.1992 and 14.8.1993. By these orders, after holding a departmental inquiry against him, the disciplinary authority has imposed a punishment of forfeiture of two years approved service permanently for a period of two years entailing reduction in his pay and postponement of his future increment of pay, which has been upheld by the appellate authority.

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2. The applicant had been charged on 12.3.1992 that while he was posted in P&L unit as Incharge General Store, he had submitted five bills amounting to Rs.13,680.50P of M/s Dass Refrigeration Works, Motia Khan, New Delhi in the month of March, 1991 for repairing/servicing of 19 Desert Coolers and 16 Room Coolers in which 489 Sq. Ft. Plywood, 26 stand fittings, rewinding of 18 motors and 8 pumps were shown whereas no work of stand fitting and plywood was done by the firm as these works were actually done by the carpenter of P&L unit. It was stated in the charge that 'Thus it has been found that the firm had preferred a false claim for about half of the amount shown in these bills with the intention to cheat the department'. Since the applicant was incharge of General Stores of Reserve Lines, P&L unit, it was stated that not only he arranged for the said repairs of Desert Coolers and Room Coolers from the said firm even after the expiry of the contract period but he did not also seek prior approval of the competent authority as per the instructions. He has also stated that the applicant had failed to check the veracity of the bills and with reference to the actual repairs carried out by the firm which shows that he had an ulterior motive. According to the respondents, the contract in favour of the firm was valid till the summer season of 1990 only but the applicant managed the bills of the firm in the month of March, 1991. It was alleged that even the date i.e. 4.3.1991 of Bill No. 779 is incorrect as Bill Nos. 771 and 775 have been prepared on 10.3.1991.

3. We have heard Shri Shyam Babu, learned counsel for the applicant and Shri Bhaskar Bhardwaj, learned proxy counsel for the respondents and perused the records.

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4. Learned counsel for the applicant has submitted that as regards the first part of the charge that the applicant had not sought prior approval of the competent authority, there is no evidence to prove the same. He has submitted that as per the letter dated 30.5.1990 (Annexure 'A'), approval of Addl. CP/A, Delhi had been conveyed for awarding contract services/maintenance/repair of desert and air coolers of Delhi Police for the summer season 1990 to M/s Dass Refrigeration Works. He has submitted that the competent authority has, therefore, given the approval for carrying out the repair and servicing of coolers by this particular firm and, therefore, there was no question of not seeking prior approval of the competent authority as per instructions. According to him, the work of servicing and repairing the coolers had been done in the summer of 1990 for which he relies on the document at Annexure 'B' which he states is an acknowledgement of a number of persons that the work has been done in the summer of 1990. He has also relied on the statement of PW-17, Shri Gulshan Katira, Proprietor M/s Dass Refrigeration Works that a contract for repair and maintenance of coolers for the summer season of 1990 was awarded to him. In pursuance of this order, he had carried out the repairs of the coolers. According to him, the notes prepared by the employees at the time of repair on the basis of which the bills have been prepared have been destroyed. He has stated that he had submitted the bills without dates to the applicant in January, 1991 but the same were submitted in March, 1991 due to his ill health. Learned counsel has submitted that based on these documents and evidence the applicant could ~~not~~ have been held guilty of the charges levelled against him. He has stressed on the fact that the

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part of the charge regarding getting the plywood work done by the carpenter of P&L unit and not by the firm has not been proved by the witnesses and this should not have been taken by the Inquiry Officer in his findings. He has, therefore, submitted that since the work of repair and maintenance of the room and desert coolers had been carried out in the summer season in 1990 by the approved firm of M/s Dass Refrigeration Works whose proprietor himself had stated that he had submitted the bills to the applicant for the work done, the findings recorded by the Inquiry Officer, on which ^{basis} the disciplinary authority had decided contrary to the evidence on record, are illegal and accordingly the impugned punishment orders should be quashed and set aside.

5. The respondents in their reply have denied the above allegations and we have also heard Shri Bhaskar Bhardwaj, learned counsel. Learned counsel has submitted that the 5 bills mentioned in the charge had been submitted for repairing/servicing of 19 desert coolers and 16 room coolers when the applicant was posted as incharge of General Stores of Reserve Lines, P&L unit. He has pointed out that while Bill No. 766 is dated 4.3.1991, Bill Nos. 771 and 775 bear a later date i.e. 10.3.1991. He has also submitted that in the statements made by PW-3, SI Kali Charan, he has submitted that during the month of March, 1991 the applicant had come to him along with a list of coolers showing the details of desert coolers issued to various branches. He has also submitted that according to PW-4, ASI Bhoop Singh, he had stated that he does not know whether the replaced coolers were got repaired or not and he has also denied having signed any such repair list. Learned counsel has submitted that the document relied upon by the applicant at Annexure 'B', therefore,

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only shows that some of the witnesses stated that they were in possession of the coolers and not that this was a list of coolers which have been got repaired by the applicant through the approved firm. He has also pointed out that PW-18, SI Jag Pal Singh, in his evidence has stated, inter alia, that the relevant 5 bills were submitted for repairing/servicing of desert and room coolers in which among other thing 489 Sq. Ft. plywood, 26 stand fitting, rewinding of 18 Nos. Motors and 8 Nos. Pumps were shown whereas ~~the~~ work of stand fitting and plywood ~~was~~ actually done by the Carpenter of P&L unit. Learned counsel has submitted that the Inquiry Officer has applied his mind to the documents and statements of both PWs and DWs before coming to his conclusion which reads as follows:

"(1) As Incharge General Store, P&L unit he arranged for the repair of room/desert coolers through M/s Dass Refrigeration Works after the expiry of the summer session of 1990 in the month of March, 1991 without the prior approval of the competent authority.

(2) He also failed to check the veracity of Bills with regard to the actual work carried by the contractor and submitted the false bills for payment to HAG branch which detected at this stage".

Learned counsel has submitted that since there was sufficient evidence before the Inquiry Officer to come to his conclusion, there is no question of the Tribunal reappreciating the evidence so as to substitute its decision for that of the competent authority. He has, therefore, submitted that in the facts and circumstances of the case, there is no infirmity in the impugned orders and the O.A. may, therefore, be dismissed.

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6. After very careful consideration of the pleadings and submissions made by the learned counsel for the parties, and having regard to the settled law on the jurisdiction exercised by the Tribunal under judicial review in such matters, we are of the view that there is no justification to interfere in this matter. This is not a case of no evidence and as pointed out by the learned proxy counsel for the respondents, the decision of the disciplinary authority has been taken based on the evidence of witnesses and documents placed before the Inquiry Officer who had after analysing the same come to the conclusion that the charges levelled against the applicant are proved. There is discrepancy in some of the Bills, for example, Bill Nos, 771 and 775 which are dated 10.3.1991 and a later Bill i.e. Bill No. 779 which shows an earlier date of 4.3.1991. The contention of Shri Shyam Babu, learned counsel, that the repair and maintenance of the coolers have been done after obtaining the approval of the competent authority and the same had been carried out in the summer of 1990 is not borne out by the documents on record. PW-8, SI Om Prakash, has in his statement in the departmental proceedings stated that on going through the file available with him regarding air room coolers/desert coolers that no prior approval was obtained for getting the coolers in question repaired. Another prosecution witness, PW-9, has also stated that he had physically checked the coolers but found that the pads were changed by the staff himself and not by ^a mechanic and the pads were also brought by the staff of English offices in the month of March, 1991. We have also been shown the other

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statements of witnesses and records from which we are not satisfied with the assertion of the learned counsel for the applicant that there was absolutely no evidence to fix the applicant on the charges levelled against him. PW-3, SI Kali Charan, has in his deposition in the departmental proceedings held against the applicant, stated that it is seen from the file available with him that the approval of PHQ for the contract in question for the summer season ^{of 19} 1990 was obtained vide their letter dated 30.5.1990. There is also other evidence on record that no repair work was carried out in respect of some of the coolers and the list relied upon by the applicant (Annexure 'B') is only a list of the officers having the coolers in their rooms and does not indicate that the repairs have been carried out with respect to these coolers by M/s Dass Refrigeration Works during the period, in question, when the applicant was incharge of General Stores.

7. It is settled law in a catena of judgements of the Supreme Court that the jurisdiction of the Tribunal to interfere with the disciplinary matters cannot be equated with an appellate jurisdiction. Further, it has been held that the Tribunal cannot interfere with the findings of the Inquiry Officer or Competent authority where they are not arbitrary or utterly perverse (See Union of India Vs. Parma Nanda (AIR 1989 SC 1185), Upendra Singh Vs. Union of India (JT 1994 (1) SC 658) and N. Rajarathinam Vs. State of Tamil Nadu and Ors. (1997(1) SLJ 10)). Taking into account the decisions of the Supreme Court in such matters and the relevant documents on record in the present case, we, therefore, find no good ground to interfere in the matter. We find no merit in this application and it is accordingly dismissed. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

'SRD'

V. Ramakrishnan
26/7/1991
(V. Ramakrishnan)
Vice Chairman (A)