

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O. A. NO. 1753/1994

(8)

New Delhi this the 27th day of July, 1999.

HON'BLE SHRI A. V. HARIDASAN, VICE CHAIRMAN (J)

HON'BLE SHRI S. P. BISWAS, MEMBER (A)

L. R. Amoli S/O Yogeshwar Prasad Amoli,
R/O F-470, Rajendra Nagar, Roorkee,
Working as Sr. Accounts Officer
in PAO (ORS),
Roorkee. Applicant

(By Shri A. K. Behera, Advocate)

-Versus-

1. Union of India through
Secretary, Ministry of Defence,
DHO Post Office,
New Delhi-110011.
2. Controller General of Defence Accounts,
West Block-V, R. K. Puram,
New Delhi-110066. Respondents

(By Shri P. H. Ramchandani, Advocate)

O R D E R (ORAL)

Shri S.P. Biswas, Member(A)

The applicant, a Senior Accounts Officer under the respondents is aggrieved by the orders dated 23.2.1993 and 9.12.1993. These orders have been issued pursuant to a disciplinary proceedings held under Rule 14 of CCS (CCA) Rules, 1965.

2. As per orders of the disciplinary authority, the applicant has been found guilty in respect of charges at (b) and (f) both of the memo dated 31.7.1990. In respect of charge at (b), the Enquiry Officer has found the applicant not responsible whereas in respect of charge (f) the applicant has been held partly responsible. It is in the context of these findings of the disciplinary authority that the

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applicant has challenged the orders dated 23.2.1993 on the ground that while disagreeing with the findings of the Enquiry Officer, the disciplinary authority was required to record the reason, come to his own conclusion and also inform the delinquent officer giving him an opportunity to explain his side of the case which is required in terms of the rules of natural justice.

3. While going through the orders of the disciplinary authority as at Annexure A-8 we find that the disciplinary authority has given reasons for disagreeing with the views of the Enquiry Officer in respect of lapses at (b) whereas no reasons have been recorded by the disciplinary authority while disagreeing with the conclusion of the Enquiry Officer in respect of lapses at (f). To add strength to his contentions, the learned counsel drew our attention to judicial pronouncements of the Apex Court in the case of NARAYAN MISHRA vs. STATE OF ORISSA, (1996) 3 SLR 657 only to highlight that the applicant has been denied reasonable opportunities to defend his case. That was the case where the Apex Court held that in the event of any disagreement with the finding of the Enquiry Officer, the principles of natural justice would require that the delinquent official be informed of the same and obtain the latter's view on them. We find that the law laid down by the Apex Court in NARAYAN MISHRA's case (supra) has been reaffirmed by the Hon'ble Supreme Court in its recent orders in the case of BANK OF INDIA & ANR. vs. T. SURYANARAYANA, JT 1994 (4) SC 489. The Apex Court in this case held

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that the disciplinary authority on receiving the report of the Enquiry Officer may or may not agree with the finding recorded by the latter. In case of disagreement the disciplinary authority has to record the reasons for disagreement and then to record his findings if the evidence available on record be sufficient for that exercise or else remit the case to the Enquiry Officer for further enquiry and report.

4. While applying the law laid down by the Apex Court as aforementioned, we find that the disciplinary authority has failed to discuss the evidences and also the reasons as to why he had to disagree with the findings against charge (f) levelled against the applicant herein.

5. That apart, we find yet another legal infirmity in dealing with the case by the appellate authority. An appellate order under CCS (CCA) Rules, 1965 had to proceed strictly in terms of the provisions under Sub-rule (2) of Rule 27. Any disposal of the appeal in disregard to the provisions stipulated in Rule 27(2) of CCS (CCA) Rules, 1965 has to be only held as null and void in the eye of law. We find that the appellate authority at Annexure 10 has only discussed the points raised in the appeal. The appellate order nowhere mentions that the procedures laid down in holding the D.E. proceedings have been complied with. Nor it has been mentioned that the findings of the disciplinary authority are

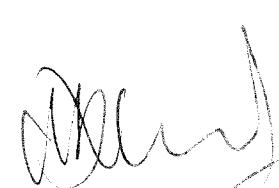
warranted by the evidence. Nor is there any comment as regards adequacy of punishment vis-a-vis gravity of the offence established.

6. In the background of the aforementioned legal infirmities, the O.A. is allowed with the following directions :

- (i) The impugned orders at Annexure A-8 and A-10 are set aside.
- (ii) The applicant shall be eligible for the consequential benefits.
- (iii) The case is remitted to the disciplinary authority from the stage of enquiry report. The said authority shall discuss the charges proved or partly proved, as the case may be, strictly with reference to the law laid down by the Apex Court and in the light of the observations as aforesaid.
- (iv) The applicant shall be informed of the position within a period of three months from the date of receipt of a copy of this order.

No order as to costs.


(S. P. Biswas) -
Member (A)


(A. V. Haridasan)
Vice Chairman (J)

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