

CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH

OA.No.1842 of 1994

New Delhi, this 5th day of August, 1999

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HON'BLE MR.JUSTICE D.N. BARUAH, VICE CHAIRMAN
HON'BLE MR. N. SAHU, MEMBER(A)

Ram Tirath Pandey
S/o Shri Devi Prasad Pandey
R/o T-605 Vijay Park
Baljit Nagar
West Patel Nagar
New Delhi-110 008. ...Applicant

(By Advocate: Shri R.K. Shukla, proxy
for Shri S.N. Shukla)

versus

General Manager
Delhi Milk Scheme
West Patel Nagar
New Delhi-110 008. ... Respondent

(By Advocate: Shri V.S.R. Krishna)

O R D E R (ORAL)

BARUAH.J(VC)

The applicant was, at the material time, working as Mate in Delhi Milk Scheme. Article of Charges were framed against him under the provisions of Rule 14 of the CCS(CCA) Rules, 1965. The charges along with the statement of computation were served on the applicant and the applicant duly submitted his reply to the charges. However, the disciplinary authority not being satisfied with the reply, decided to hold an enquiry and an Inquiry Officer was appointed. The applicant attended the enquiry for some time. The statement of the witnesses on behalf of the disciplinary authority were recorded. On conclusion of the examination of the witnesses

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and according to the evidence of witnesses, the Inquiry Officer asked the charged official to submit the defence statement. He prayed for 15 days' time. However, the Inquiry Officer gave five days' time initially and thereafter another 6 days' time and within this period also the applicant did not submit the defence statement. However, 2 days' further time was also given to meet the ends of justice by the Inquiry Officer. Even though the charged official was not present. Thereafter also no defence statement was submitted. The Inquiry Officer concluded the enquiry and submitted his report to the disciplinary authority holding the applicant guilty of the charges. The disciplinary authority imposed punishment on the basis of the enquiry report submitted by the Inquiry Officer retiring the applicant compulsorily vide Annexure-11 order dated 19.1.93. Being aggrieved by the Annexure-11 order compulsorily retiring the applicant, the applicant submitted Annexure A-12 appeal. The appeal was not disposed of. The applicant has, therefore, approached this Tribunal by filing the present application.

2. We have heard both sides. Shri R.K. Shukla, learned counsel appearing on behalf of the applicant challenges the enquiry report and the enquiry conducted by the Inquiry Officer. His first contention is that the applicant asked for 15 days' time to submit the defence statement which was cut short to initially 5 days and thereafter however it was extended to

6 days even on the expiry of the period. As no defence statement was filed, the Enquiry Officer suo moto granted two days' more time for filing the defence statement. In total, 13 days' time was allowed. The contention of the learned counsel appearing for the applicant that the Inquiry Officer ought to have given at least 15 days' time to enable the charged official to submit his defence statement.

3. We have perused the papers. We find that it is true that the applicant applied for 15 days' time, but the Inquiry Officer granted two days short, i.e. 13 days. In the wisdom of the Inquiry Officer such time was granted and we do not find any infirmity and, therefore, on this ground we are not inclined to set aside the order even though we feel some more time should have been granted. His next submission was that the penalty imposed by the Deputy General Manager(Admn.) was without jurisdiction inasmuch as according to him the General Manager was the competent authority to impose the penalty. Learned counsel appearing for the applicant has shown a document in his support. It is true the documents shown to us indicates that the disciplinary authority is the Deputy General Manager. But Shri V.S.R. Krishna, learned counsel appearing on behalf of the respondent has produced a Notification dated 7.7.84 which specifically mentions that the disciplinary authority for Group 'D' officials is the Deputy General Manager. Learned counsel appearing for the applicant has not been able

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to show anything before us that this Notification has been superseded. In view of this, we do not find any merit of this ground also. His next submission is that Rule 14(18) of the CCS(CCA) Rules, 1965 was not complied with by holding the enquiry. We quote the rule provision contained in Rule 14(18) of the CCS(CCA) Rules, 1965 as follows:

"The inquiring authority may, after the Government servant closes his case, and shall, if the Government servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the Government servant to explain any circumstances appearing in the evidence against him."

4. The above quoted Rule indicates that the Government servant after the closer of his case, the inquiring authority may generally put him questions and in any case when a Government servant has not examined himself, shall generally put question on the circumstances appearing against him in the evidence to enable him to explain any circumstances appearing in the evidence against him. On reading of the clause we find that it is mandatory on the part of the Inquiry Officer to put question on the charged official on evidence. But in case where the charged official does not examine himself, it is bounden duty on the part of the Inquiry Officer to put questions generally appearing against him in the evidence for the purpose of enabling the Government servant to

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explain. The rule is very clear. The Rule provides an opportunity to the charged official to explain the evidence appearing against him in the case. This is another way of granting opportunity to defend his case. The contention of the learned counsel appearing on behalf of the applicant is that this was not done. Learned counsel appearing for the respondents also agrees that this provision was not complied with. We feel the direction given in the said provision is mandatory in nature and non compliance will prejudice the applicant. Therefore, we are of the opinion that the Inquiry Officer did not conduct the enquiry after due compliance with the provisions contained in Rule 14(18) of the CCS(CCA) Rules, 1965. Therefore, penalty imposed cannot sustain in law.

5. In view of the above, we set aside the Annexure-11 order passed by the disciplinary authority imposing the penalty on the applicant. The disciplinary authority however is granted liberty to proceed with the case afresh in due compliance with the provisions contained in the aforesaid rules.

No order as to costs.

N. Sahu
(N. Sahu)
Member (A)

D.N. Baruah
(D.N. Baruah)
Vice Chairman (J)

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