

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1147/2000

New Delhi, this 10th day of December, 2001

Hon'ble Shri M.P. Singh, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

P.S. Meena
C-42, East of Kailash, New Delhi .. Applicant

(By Shri M.P. Raju, Advocate)

versus

Union of India, through

1. Foreign Secretary
Ministry of External Affairs
South Block, New Delhi
2. Joint Secretary (CNV)
Ministry of External Affairs
South Block, New Delhi
3. Secretary
Union Public Service Commission
Shahjahan Road, New Delhi
4. Central Vigilance Commissioner
GPO Complex, INA, Satkara Bhawan
New Delhi .. Respondents

(Shri V.S.R. Krishna, Advocate)

ORDER(oral)

Shri M.P. Singh, Member(A)

By the present OA, applicant has challenged the order dated 27th October, 2000 by which he has been dismissed from service.

2. Brief facts leading to the present application, as per the version of the applicant, are that he was promoted to the post of Section Officer in the year 1984. While he was working as Assistant Passport Officer, Bareilly, he was issued charge-sheet dated 24.3.1992 levelling as many as 12 charges against him as at Annexure P-1 to the OA. The inquiry authority (Commissioner for Departmental Inquiries) which conducted a departmental enquiry, submitted its report



on 28.12.95 concluding that Articles of Charge I and V were partly proved. A copy of the inquiry report was served on the applicant on 23.4.1998 by the disciplinary authority (DA, for short) and the applicant gave his representation on 24.4.1998. Thereafter, DA has imposed the penalty of dismissal on the applicant vide its order dated 27.10.2000, which is under challenge before us.

3. Respondents have contested the application and have stated in their reply that disciplinary proceedings were initiated against the applicant under Rule 14 of CCS(CCA) Rules, 1965 vide Memo dated 24.3.92 on account of 12 Articles of charge for the misconduct committed by the applicant while he was serving as Assistant-cum-Acting Passport Officer, Bareilly. An enquiry into the charges was ordered by the disciplinary authority, The inquiry officer from the Central Vigilance Commission had upheld the charges framed under Article I and V of the charge-sheet to the extent that the applicant had issued fresh and duplicate passports on an out of turn basis, without recording reasons for his actions, in the form of a speaking order, and/or without obtaining documentary evidence in support of urgency, in violation of the instructions contained in circular dated 6.6.89 issued by the CPV Division of the Ministry of External Affairs. A copy of the inquiry report was sent to the applicant on 23.4.98 against which the applicant submitted his representation 24.4.98. As the applicant was a gazetted officer, his case records were sent to UPSC for advice, which in its turn observed vide its letter dated 28.2.2000 that the applicant had issued fresh passports/duplicate passports on an out of turn basis without recording reasons for his action, in the



form of a speaking order or without obtaining documentary evidence in support of urgency, with an ulterior motive, in league with unauthorised agents and touts. The Commission recommended imposition of penalty of dismissal from service on the applicant. The DA vide its letter dated 20.4.2000 had requested the UPSC to reconsider its advice and give its concurrence to the proposal of imposition of penalty of compulsory retirement from service for the reasons recorded therein. However, the UPSC vide its letter dated 15.9.2000 had reiterated its earlier advice on the grounds that in a disciplinary case, the standard of proof required is that of preponderance of probability and not proof beyond reasonable doubt and the rules only say that there should be good and sufficient reasons for imposing a penalty on a government servant. The DA agreeing with the advice tendered by the UPSC imposed the punishment of dismissal from service on the applicant by its order dated 27.10.2000. In view of this position, the OA be dismissed.

4. We have heard the learned counsel for the rival contesting parties and perused the records.

5. During the course of the arguments, the learned counsel for the applicant submitted that there is no application of mind by DA as may be seen from the order passed by him imposing the penalty of dismissal on the applicant on the advice of UPSC, by passing a non-speaking order. He also submitted that it has been observed by the UPSC that in a very large number of cases, the CO (applicant) issued passports at the behest of third parties, including touts without recording any

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speaking orders and/or without obtaining documentary evidence in support of urgency. This observation of UPSC is totally contrary as may be seen from records. There is no allegation or charge against the applicant that he issued passports at the behest of the third parties including touts. The UPSC had therefore examined the issue which did not even form part of the charge-sheet.

6. Article I of the charge reads as under:

"Shri Meena during his tenure as Head of the Passport Office, Bareilly, issued passports on out of turn basis in a large number of cases in violation of Ministry's standing instructions. In a very large number of cases he issued passports at the behest of 3rd parties including touts without recording any speaking orders and/or without obtaining documentary evidence in support of urgency. Normally it was taking about 4 months period to issue passports while in certain cases he issued passports even within a day or so."

7. The plea of the applicant that the UPSC has not examined his case within the framework of the charge-sheet and has taken into consideration the extraneous material while advising the DA is not correct. We have carefully perused the records and we find that the disciplinary proceedings initiated by the respondents are in accordance with law, rules and instructions. The applicant was given full opportunity to defend himself and he was supplied with all the required documents and therefore there is no violation of principles of natural justice. In fact, the DA has proposed to impose the penalty of compulsory retirement on the applicant while seeking the advice of UPSC. However, the UPSC had advised penalty of dismissal from service to be imposed on the applicant and accordingly

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respondents have accepted the advice and imposed the penalty. We, therefore, do not find any fault with the procedure followed by the respondents in holding disciplinary proceedings against the applicant.

8. Moreover, we are aware of the legal position as laid down by the Supreme Court in the case of B.C.Chaturvedi Vs. UOI JT 1995(8) SC 65 that the Tribunal cannot go into the quantum of punishment. However, in the present case, we find that out of 12 charges levelled against the applicant, only Charges I and V have been partly proved. Therefore, keeping in view the nature of charge levelled against the applicant and the other material available on record, we are of the considered view that the extreme penalty of dismissal imposed on the applicant appears to be disproportionate. We also find that the respondents while passing the impugned order of penalty, have only recorded the articles of charge framed against ²~~the applicant~~ the instructions issued by them for issuing passport and the advice of UPSC. No reason whatsoever has been recorded by them for imposing the extreme penalty of dismissal which only shows non-application of mind on their part and therefore the impugned order is a non-speaking order.

9. In this view of the matter, we are of the view that ends of justice would be duly met if we remit the case back to the respondents to consider imposing any other penalty other than dismissal or removal from service on the applicant, keeping in view the findings of the inquiry authority as also the submissions made by the applicant in his representation, by passing a speaking, reasoned and detailed order.



10. In the result, we allow the present OA and quash and set aside the impugned order dated 27th October, 2000 (Annexure P/8). The case is remitted back to the respondents for taking further action on the above lines. This exercise shall be completed by them within a period of four months from the date of receipt of a copy of this order. There shall be no order as to costs.

S. Raju

(Shanker Raju)
Member(J)

M.P. Singh

(M.P. Singh)
Member(A)

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