

Central Administrative Tribunal

Principal Bench

O.A. No. 1326 of 2000

New Delhi, dated this the 2nd May 2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. KULDIP SINGH, MEMBER (J)

Laxman Meena,
S/o Late Shri S.L.Meena,
R/o B-2, Jungpura "B",
New Delhi.

Employed as
Asstt. Central Intelligence Officer Grade II(G),
In the Intelligence Bureau,
Ministry of Home Affairs,
GOI, North Block,
New Delhi.-1

...Applicant.

(By Advocate: Shri B.B.Raval)

Versus

1. Union of India,
through
the Secretary,
Ministry of Home Affairs,
Govt. of India,
North Block,
New Delhi.-1.
2. The Director,
Intelligence Bureau,
Ministry of Home Affairs,
Govt. of India,
North Block,
New Delhi-1
3. The Joint Director, SIB,
Ministry of Home Affairs,
GOI,
2B, Lawan Marg,
Jhalana IDungri,
Institutional Area,
Jaipur-302 004
4. Shri P.Tyagi,
Joint Assistant Director(Retd),
R/o 41/15, Mansarovar.
Jaipur-302 020

... Respondents.

(By Advocate: Shri K.C.D.Gangwani)

ORDER

S.R. ADIGE, VC (A)

Applicant impungs respondents' order dated
9.9.96 (Annexure-A) ordering a fresh enquiry; the

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disciplinary authority's order dated 22.9.98 (Annexure.-B); the order dated 15.10.99 treating the suspension period as non-duty period (Annexure-C) and the appellate authority's order dated 11.2.2000 (Annexure-D). He seeks restoration to the rank of ACIO Gr. I w.e.f. 22.9.98 with consequential benefits.

2. Applicant was placed under suspension w.e.f. 22.3.95 and chargesheeted vide Memo dated 26.4.95 under Rule 14 CCS (CCA) Rules upon receipt of a written complaint from Shri R.K.Meena, SA SIB Kota that on the night of 4/5 March, 1995 applicant visited the latter's home in a drunken condition and intentionally misused his official position by securing entry into Shri R.K.Meena's home at inconvenient hours. He overawed his subordinate and forced him out of the house after telling him concocted stories about his selection for an assignment abroad. He sent him out for an official errand so that he could be alone with Shri R.K.Meena's wife. After the return of Shri R.K.Meena, he insisted on sleeping in his home and misbehaved with Shri R.K.Meena and his wife.

3. In reply to the chargesheet, applicant submitted his representation on 4.5.95 denying the charges.

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4. Thereupon the Asstt. Director, SIB, Jaipur was appointed as Inquiry Officer to enquiry into the charges vide order dated 19.6.95.

5. The Inquiry Officer submitted his enquiry report on 29.5.95 in which he upheld the charges levelled against applicant on the basis of the statement of Shri R.K.Meena, his wife and other witnesses.

6. A copy of the Inquiry Officer's report was sent to applicant for representation, if any. In reply applicant submitted a representation on 22.12.95 pointing out certain procedural lacunae in the enquiry.

7. After considering the Inquiry Officer's findings, and the applicant's representation dated 22.12.95 the disciplinary authority (JD SIB Jaipur) vide Memo dated 17.1.96 forwarded the case to the Director, IB who is the competent authority for awarding major penalty in the instant case, recommending that a major penalty be awarded to applicant.

8. The DIB on perusal of the findings of the Inquiry Officer and the other materials on record, found that the enquiry conducted against suffered from various procedural infirmities. He therefore ordered that the case be remitted to the disciplinary

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authority (JD DIB Jaipur) for conducting a fresh enquiry from the stage after submission of applicant's defence statement. Accordingly the case was referred back to SIB, Jaipur vide Memo dated 6.8.96.

9. Applicant's suspension was revoked on 16.8.96.

10. Meanwhile the previous Inquiry Officer having retired from service, a fresh Inquiry Officer was appointed who submitted his findings on 6.1.98 in which the charges against applicant were proved beyond reasonable doubt except that aspect of the charges relating to applicant's alleged visit to the home of Shri R.K.Meena in a state of drunkenness.

11. A copy of the Inquiry Officer's report was sent to applicant on 27.1.98 for representation, if any. Applicant submitted his representation on 4.2.98.

12. After considering the materials on record, including applicant's aforesaid representation and agreeing with the findings of the Inquiry Officer the disciplinary authority (Director, IB) by his order dated 22.9.98 imposed upon applicant the penalty of reduction to the lower post of ACIO Gr.II for a period of three years from the date of issue of the order whereafter he may be restored to the higher post of ACIO Gr.I, if found fit. The period of reduction would have the effect

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of postponing future increments of pay on restoration. Further, on reduction to the lower post he would be allowed to draw pay @ Rs.6375/- in the ACIO Gr. II time scale of pay of Rs.5500-9000.

13. Applicant therefore filed an appeal. After obtaining the advice of UPSC the same was rejected by order dated 11.2.2000 giving rise to the present OA.

14. The first ground taken is that there was no material available with respondents to initiate the disciplinary enquiry. This ground is rejected in view of the contents of the preliminary enquiry report dated 21.3.95 submitted by the Assistant Director (C) SIB Jaipur. Even if, as contended by applicant, he was not associated with the preliminary enquiry, the contents of the preliminary enquiry report were sufficient to initiate disciplinary proceedings against him.

15. Similarly, even if the wife of Shri R.K.Meena was ^herself not examined in the DE, that does not mean that the allegations cannot be substantiated on the basis of the testimony of other material witnesses, or of other evidence, as has been substantiated in the present case. Hence this ground also fails.

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16. The ground that the Article of charge could not form the subject matter of a DE nor ~~it~~ ~~it~~ constitute misconduct, ~~has~~, on the face of it to be rejected outright, as these Articles of charges clearly constitute misconduct.

17. The next ground taken is that the DE was conducted in disregard of the law; the safeguards contained in Article 311 (2) of the Constitution; the statutory provisions of the CCS (CCA) Rules; and without conforming to the principles of natural justice, but in the absence of any cogent materials to support this ground, the same is rejected.

18. The next ground taken is that statements of PWs were recorded behind applicant's back. It is stated that statement of Shri P. Tyagi, DCIO Kota was recorded on 5.10.95 behind applicant's back and similarly the statements of Shri Chander Singh, ACIO II Kota was recorded on 9.10.95 and of Shri Ishwar Lal on 6.10.95 behind applicant's back. This ground has no merit, because pursuant to the DIB's orders, the case was remitted back to the JD, DIB, Jaipur for conducting fresh enquiry from the stage after submission of applicant's defence statement and accordingly the case was referred back to SIB, Jaipur vide Memo dated 6.8.96. Placed at Annexure R-5 is the statement of Shri P. Tyagi dated 4.9.97 in the DE with the signature of applicant and his defence Assistant, which clearly shows that Shri Tyagi was examined in applicant's presence. Similarly we have

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no prima facie reason to doubt that S/Shri Chander Singh and Kishan Lal were also examined in applicant's presence. Hence this ground also fails.

19. The next ground taken is that applicant was not given any opportunity to state his defence, and he was not questioned generally on the circumstances appearing against him as required under Rule 14 (16) and Rule 14 (18) CCS (CCA) Rules. This contention has been denied by respondents in the corresponding para of their reply in which it has been stated that applicant was given full opportunity to defend himself and appeared along with his defence assistant. These specific averments of respondents have not been specifically denied by applicant in rejoinder. We note that applicant was present during the examination of PWs and he cannot claim to be unaware of the circumstances appearing against him. Hence this ground also fails.

20. The next ground taken is that applicant was denied opportunity to file written brief under Rule 14 (19) CCS (CCA) Rules, but this ground is baseless in the light of copy of applicant's written brief dated 26.11.97 which is on record (Annexure R-7).

21. The ground that the findings are based on conjectures and surmises is equally baseless, in the light of the specific findings of the Enquiry Officer based on ^{un}controverted evidence.

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22. The next few grounds relate the first enquiry report dated 29.11.95, but those grounds are rendered irrelevant in the light of the fact that a second enquiry was ordered to be conducted because the first enquiry on the basis of which the report dated 29.11.95 was submitted, was found to certain procedural lacunae.

23. The next ground taken is that the 2nd enquiry amounted to a fresh enquiry which was not permissible under rules, but respondents in the corresponding para of their reply have pointed out that this 2nd enquiry was in the nature of a further enquiry and was not a fresh enquiry. This assertion of respondents in their reply has not been specifically denied ^{by} applicant in the corresponding para of his rejoinder. Hence this ground also fails. Indeed in para 5 (M) of the OA, applicant himself concedes that it was a further enquiry and not a fresh enquiry.

24. The other grounds taken by applicant in the OA are vague and general in nature, and to the extent they are specific, are already covered in the foregoing analysis.

25. During the course of hearing it was contended that the DIB was not competent to initiate or finalise action against applicant, but this assertion is negated by applicant's own assertion in para 2.9 of his representation dated 6.10.98

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(Annexure A-34) wherein it has been stated that it is only the DIB who is the competent authority to initiate or finalise any action against applicant.

26. In the result the OA warrants no interference. It is dismissed. No costs.

Kuldeep Singh
(Mr. Kuldeep Singh)

Member (J)

S.R. Adige
(S.R. Adige)
Vice Chairman (A)

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