

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1476/2000

New Delhi this the 9th day of August, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

Munshi Lal [Retd. Chief Engr.(C)],
R/O 121, Munirka Vihar,
New Delhi-110067.

... Applicant

(By Shri U.Srivastava, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of
Information & Broadcasting,
Shastri Bhawan, New Delhi.
2. Director General,
All India Radio, Aakashvani Bhawan,
Parliament Street,
New Delhi-110001.
3. Under Secy. to Govt. of India(Vig.),
Min. of Information & Broadcasting,
Government of India,
New Delhi.

... Respondents

O R D E R (ORAL)

Shri V.K.Majotra, AM :

The applicant has challenged the validity and propriety of orders dated 2.6.2000 (Annexure A-1) imposing a penalty of 20% reduction in his pension for a period of two years.

2. Disciplinary proceedings under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 were initiated against the applicant, the then Chief Engineer (Civil), Civil Construction Wing, All India Radio, New Delhi, vide memorandum dated 17.1.1995 on the following charges :

"ARTICLE-I

That the said Sh. Munshi Lal, while functioning as Superintending Engineer (Civil), Civil Construction Wing, All India

Radio, Delhi during the period 1986-87 accepted the work of Construction of Doordarshan Bhavan, Mandi House, (SH: Wall Panelling in officer's room and committee room) without accord of technical sanction to market rate estimate of this work prepared by M/s. Raj Rewal and Associates in contravention of para 35 of Section 2 of CPWD Manual Vol.II. He also awarded the work to M/s. Rajasthan Decorators at rates higher than the prevailing market rates at that time by inflating the justification and without receipt of proper Administrative Approval and Expenditure Sanction or assurance of fund by the Competent Authority in contravention of para 9(a) of Section 20 of CPWD Manual Vol.II. (3)

By his above acts, Sh. Munshi Lal has failed to maintain absolute integrity, devotion to duty and has acted in a manner unbecoming of a Government servant thereby violating Rule 3(1)(i), (ii) and (iii) of the Central Civil Services (Conduct) Rules, 1964.

ARTICLE-II

That during the aforesaid period and while functioning in the aforesaid office, the said Sh. Munshi Lal accepted the work of construction of Doordarshan Bhawan, Mandi House, New Delhi (SH: Provision of furniture for Conference Room, Committee Room, Reception, Library and Video Room) without accord of technical sanction to market rate estimate of this work prepared by M/s. Raj Rewal & Associates in contravention of Para 35 of Section 2 of CPWD Manual Vol.II. He also awarded the work to M/s. Rajasthan Decorators at rates higher than the prevailing market rates at that time by inflating the justification in contravention of Para 9(a) of Section 20 of CPWD Manual Volume II.

By his above acts, Sh. Munshi Lal has failed to maintain absolute integrity, devotion to duty and has acted in a manner unbecoming of a Government servant thereby violating Rule 3(1)(i), (ii) and (iii) of the Central Civil Services (Conduct) Rules, 1964.

ARTICLE-III

That during the aforesaid period and while functioning in the aforesaid office, the said Sh. Munshi Lal accepted the work of providing furniture for hostel accommodation at STI, AIR, Kingsway Camp, New Delhi without accord to technical sanction in contravention of Para 35 of Section 2 of CPWD Manual Vol.II. He also accepted the work without comparing the quoted rates with the prevailing market rates in absence of justification during the second call for tendered amount of Rs.2,92,769/- by rejecting

lowest tendered amount of Rs.2,09,092/- of first call thereby causing a pecuniary loss of Rs.83,677/- to the Government. Further, neither any justification was submitted by the Executive Engineer (C) nor was it considered necessary by the Superintending Engineer (C), Shri Munshi Lal in contravention of Para 9(a) of Section 20 of CPWD Manual Vol.II. In addition no exercise was undertaken to identify abnormally high rated/low rated items in contravention of Para 10 of Section 20 ibid.

By his above acts, Sh. Munshi Lal has failed to maintain absolute integrity, devotion to duty and has acted in a manner unbecoming of a Government servant thereby violating Rule 3(1)(i), (ii) and (iii) of the Central Civil Services (Conduct) Rules, 1964.

ARTICLE-IV

That during the period 1989-90 and while functioning in the aforesaid office, the said Sh. Munshi Lal approved the proposals contained in letter No.1/52/W/89-90/3569, No.1/53/W/89-90/3570 and letter No.1/51/W/89-90/3571 all dated 24.10.89 i.e. converting item rate tender of M/s. Precision Metal Industries into work order of M/s. Rajasthan Decorators without getting the same scrutinised in his office and without taking any action for rescinding or closing the contract which is in contravention of the instructions contained in para 2 and 3 of Section 33 of CPWD Manual, Vol.II and beyond the competency of the Superintending Engineer (Civil). Further, while clearing the final bill of these work orders extra items/substituted items and deviations in items were allowed/approved in contravention of the instructions contained in CPWD Manual thereby causing undue benefit to the agency in respect of works at Srinagar.

By his above acts, Sh. Munshi Lal has failed to maintain absolute integrity, devotion to duty and has acted in a manner unbecoming of a Government servant thereby violating Rule 3(1)(i), (ii) and (iii) of the Central Civil Services (Conduct) Rules, 1964."

It was alleged that by his above acts, the applicant had failed to maintain absolute integrity, devotion to duty and had acted in a manner unbecoming of a Government servant thereby violating Rule 3(1)(i), (ii) and (iii) of the Central Civil Services (Conduct) Rules, 1964.

3. The applicant denied the articles of charge levelled against him vide his written statement of defence dated 31.1.1995. The Commissioner for Departmental Enquiries, Central Vigilance Commission was appointed as the enquiring officer vide order dated 29.3.1995 to enquire into the articles of charge levelled against the applicant. The enquiry officer vide his report dated 30.6.1995 held the charges not proved. The disciplinary authority decided to disagree with the enquiry officer's report dated 30.6.1995. The disciplinary authority's reasons for disagreement with the enquiry report dated 30.6.1995 along with the said report were forwarded to the applicant vide memo dated 21.2.1997 to give him an opportunity to make representation/submission on the same. The applicant made his representation on 25.7.1997. The disciplinary authority, who in this case is the President, after considering the findings of the enquiry officer and the representation submitted by the applicant, came to the conclusion that a formal penalty should be imposed on the charged officer. Thus, the case was forwarded to the Union Public Service Commission for their advice in the matter.

4. The applicant has in the OA alleged mala fides on the part of the respondents and averred that there have been some procedural mistakes which do not call for issuance of major penalty chargesheet against him. It is also alleged that there has been violation of principles of natural justice and that the disciplinary authority had adopted a slipshod procedure.

5. The applicant had earlier filed an OA being OA No.21 /99 which was decided by order dated 1.3.2000 observing that the same was premature and was thus dismissed giving liberty to the applicant to agitate against the final orders to be passed by the disciplinary authority, if he was aggrieved by the same. The applicant has sought quashing and setting aside of the impugned order dated 2.6.2000 vide which he was imposed a penalty of 20% reduction in pension for a period of two years which was communicated to him vide letter dated 19/20.6.2000 (Annexure A-1), with consequential benefits. (6)

6. We have heard the learned counsel for the applicant. According to him, the applicant was not supplied with the preliminary enquiry papers. He reiterated the grounds mentioned in the OA that not only proper procedure in the enquiry was not followed, even the principles of natural justice were violated. We have also carefully considered the material available before us.

7. We find that as the applicant had retired while the departmental proceedings were in progress, they were deemed to have continued under Rule 9 of the Central Civil Services (Pension) Rules, 1972. The Union Public Service Commission had held in their advice dated 26.3.1999 (Annexure A-9) as follows :

"16. To sum up, the Commission hold that Article I of the charge is established against the CO only to the extent that he did not complete the formality of issue of IS. Article II of the charge is proved to the extent that in addition to non-accord of technical sanction, CO did not ensure preparation of justification statement. Regarding Article III of the charge, the

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Commission conclude that CO besides not issuing the technical sanction, is responsible for not keeping a watch over abnormally high/low rated items. As regards Article IV they hold that the charge is established to the extent that the CO allowed termination of the original contract without formally rescinding or closing the contract and that he should have not allowed the deviations/substitutions while clearing the final bill submitted by M/s Rajasthan Decorators." (7)

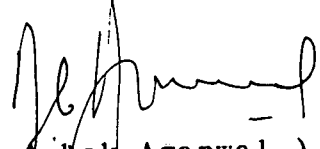
In the light of their findings, the Commission considered that the ends of justice would be met if 20% of the monthly pension otherwise admissible to the applicant is withheld for a period of two years. The disciplinary authority considered all the points raised by the applicant in his representation dated 25.7.1997 against the memo dated 21.2.1997 communicating the enquiry officer's report dated 30.6.1995 and the disciplinary authority's reasons for disagreement with the enquiry report. The disciplinary authority considered the advice of the Commission dated 26.3.1999 and keeping in view the facts and circumstances and record of the case, came to the conclusion that the ends of justice would be met if the Commission's advice was agreed to and a penalty of 20% reduction in pension for a period of two years was imposed on the applicant. Thus, the President, who is the disciplinary authority in the instant case, ordered accordingly.

8. In our view, under the rules it is open to the disciplinary authority to differ with the findings of the enquiry officer. The applicant had been issued a notice to make representation against the decision of the disciplinary authority to differ with the enquiry officer's report and also his reasons for

disagreement with the enquiry report. We find that rules and procedure have been followed in the present disciplinary proceedings and there has been no violation of principles of natural justice. 8

9. We do not find any substance in the allegations made by the applicant in the OA. Thus, we find the OA as devoid of merit and dismiss the same accordingly in limine.


(V. K. Majotra)
Member (A)


(Ashok Agarwal)
Chairman

/as/