

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL DELHI

OA 386/2000

New Delhi this the 23rd day of February, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)
Hon'ble Shri Govindan S. Tampi, Member(A)

Sunil K. Aggarwal,
R/O E-152, Kamla Nagar,
Delhi-110007.

...Applicant

(None for the applicant)

VERSUS

1. Secretary to Govt. of India,
Ministry of Defence, New Delhi.
2. Under Secretary (D APPTS),
Ministry of Defence, New Delhi.
3. The Chairman, U.P.S.C.,
New Delhi.
4. Sanjay Rath,
Acting as Under Secretary,
(D LAB) Ministry of Defence,
New Delhi.
5. Kiran Kocchar Acting as us
P.L. Chidar Acting as 10 Lt.
Gen. V.K. Kapoor Acting as E in C
Brig. A.K. Soni Acting as CE

...Respondents

(By Advocate Sh. Rajeev Bansal)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)):

None for the applicant even on the second call. We note that none had also appeared for the applicant on the previous dates, that is 16.1.2001 and 22.2.2001. In the circumstances, the OA could have been dismissed for default and non prosecution. However, in the absence of the applicant, we have perused the record and heard Shri Rajeev Bansal, learned counsel for the respondents. It is also relevant to note that this case has been listed

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today under regular matters at Serial No.5 which clearly states that the matters will be taken up serially and no adjournment will be granted.

2. In Tribunal's order dated 16.1.2001 it has been ordered that MA 92/2001 will be taken up along with the OA. In this M.A., the applicant has prayed for review/ re-call of the order passed by the Joint Registrar dated 17.5.2000 on the grounds set out thereunder. We do not find these grounds tenable as the respondents could appear and be heard either through a duly representative or the Government Counsel. In the circumstances, the objection raised by the applicant regarding appearance of one Shri K.K.Karihaloo, EE before the Joint Registrar is not illegal. Accordingly, MA 92/2001 is rejected.

3. In this O.A., the applicant has impugned the order dated 29.6.1999 passed by Respondent 4 in the name of the President. According to him, this order has been passed by one Shri Sanjay Rath, Under Secretary (Ad-hoc)/Section Officer unlawfully, fraudulently and criminally and that he has not been authorised in the name of the President.

4. Shri Rajeev Bansal, learned counsel has produced the Ministry of Defence Notification dated 13.10.1998 showing that Shri Sanjay Rath, CSS has been transferred to the Ministry of Defence on ad hoc basis w.e.f. 26.8.1998 until further orders..

(copy placed on record). In the circumstances, the above objection taken by the applicant fails and is rejected.

5. We have seen the other grounds taken by the applicant in the OA. He has submitted that he has never been subject to Army Act, 1950 and has illegally been proceeded by the respondents. We find that the disciplinary proceedings have been held against the applicant under Rule 14 of the CCS(CCA) Rules, 1965 and his contentions to the contrary are untenable and are accordingly rejected.

6. Another ground taken by the applicant is that the charge-sheet has been ab initio issued as annexures were unsigned/unattested and criminally executed by some Kiran Kocchar while impersonating as Under Secretary in the respondents' office as her appointment has not been published in the Gazette. This contention is also rejected, in the light of the copy of the Gazette Notification annexed by the respondents to the counter reply dated 20.3.1993.

7. The applicant's further contention that the disciplinary proceedings have been held ex-parte cannot also be faulted because from the pleadings on record it is clear that the charge-sheet and other relevant papers have been served on him and he chose not to participate in the disciplinary proceedings. Therefore, there is no basis of the submissions made by the applicant in the OA nor is there any

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supporting documents to his contention that the departmental proceedings have been held fraudulently, criminally and illegally.

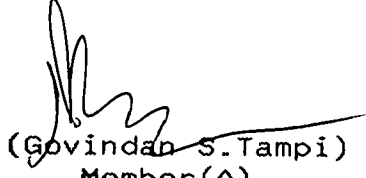
8. The applicant has also taken an objection that under Article 320(3)(c) of the Constitution, the respondents had a mandatory obligation to consult the UPSC on all disciplinary matters which was not done in the instant case. Learned counsel for the respondents has drawn our attention to the Notification issued by the Ministry of Home Affairs dated 1.9.1958, as amended upto 6.7.1999 (Annexure R.6) and in particular learned counsel relies on the Ministry of Home Affairs Notification dated 23.5.1961, which provides, inter alia, that it shall not be necessary to consult the Commission (UPSC) in regard to any disciplinary matter affecting a person belonging to the Defence Service (Civilian). Shri Rajeev Bansal, learned counsel has submitted that the applicant falls in this category and, hence, the action taken by the respondents cannot be assailed on this ground also.

9. We find force in the submissions made by the learned counsel for the respondents having regard to the aforesaid Notification issued by the Government of India, Ministry of Home Affairs dated 1.9.1958, as amended upto 6.7.1999, read with the Notification dated 23.5.1961. It is also noted that no rejoinder has been filed by the applicant to this or to the various Notifications and Rules relied upon by the respondents controverting each of the

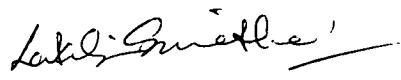
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averments he had made in the OA. We have also considered the other contentions of the applicant raised in the OA but find no merit in the same to justify any interference in the matter.

10. In the result, for the reasons given above, the O.A. fails and is dismissed. No order as to costs.



(Govindan S. Tampi)
Member(A)



(Smt. Lakshmi Swaminathan)
Vice Chairman(J)

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