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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO. 771/2000

New Delhi this the 8th day of August, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

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

Arun Kumar Sharma
R/o 304, New External Affairs Hostel
R.K.Ashram Marg
Gole Market, New Delhi.

... Applicant

(By Shri V.K. Saini, Advocate)

-versus-

1. Union of India through
Foreign Secretary
Government of India
Ministry of External Affairs
South Block
Delhi.
2. I.J.Giroh
Under Secretary (PC)
Government of India
Ministry of External Affairs
Room No.532, Akbar Bhawan
Chankyapuri, New Delhi-110 021.
3. Jayant Prasad
Joint Secretary (CNV)
& Chief Vigilance Officer
Govt.of India
Ministry of External Affairs
Vigilance Unit
South Block, New Delhi.
4. H.H.S. Vishwanathan
Joint Secretary (AD)
Ministry of External Affairs
South Block
New Delhi.

... Respondents

(By Shri N.S. Mehta, Advocate)

O R D E R (ORAL)

Shri Justice Ashok Agarwal:-

Disciplinary proceedings had been initiated against the applicant way back in 1991 by issue of a chargesheet on 26.9.1991. The chargesheet contained the following charges:-

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"Article-I

Shri Arun Kumar Sharma, Assistant belonging to grade IV of IFS (B), joined the permanent Mission of India, New York as Assistant on 20th November, 1989. He deserted his post and came back to India without any authorization on 10th June, 1990.

By his above act, the said Shri Arun Kumar Sharma has exhibited lack of devotion to duty and conduct unbecoming of a Government servant thereby contravening sub-rule (ii) & (iii) of Rule 3(1) of CCS(Conduct) Rules, 1964.

"Article-II

Shri Arun Kumar Sharma, Assistant left a personal telephone bill amounting to US \$ 6523.43 in New York unsettled when he returned to India after deserting his post.

By his above act, the said Shri Sharma has exhibited lack of integrity thereby contravening sub-rule(i) of Rule 3(1) of CCS(Conduct) Rules, 1964 as well as MEA instructions 12/83. His above conduct was also highly unbecoming of a Government servant and therefore violative of sub-rule(iii) of Rule 3(1) of CCS(Conduct) Rules, 1964.

"Article-III

After his return from New York, Shri Arun Kumar Sharma, Assistant was deployed in XP Division. He received 1000 empty video cassette covers, valued at Rs.13,000/-, on behalf of XP Division, from a private firm, M/s Manoj Electronics, Darya Ganj, New Delhi. These covers are, however, not available in XP Division's stock. Shri Sharma had been asked in writing to account for these covers. However, he has not done so.

By his above act, the said Shri Sharma has exhibited lack of integrity and conduct unbecoming of a Government servant thereby violating clauses (i) and (iii) of Rule 3(1) of CCS(Conduct) Rules, 1964.

"Article IV

Shri Arun Kumar Sharma was ordered by the Administration on May 7, 1991 to report for duty in the TC Section. However, Shri Sharma has failed to do so and has absented himself from duty unauthorizedly since May 7, 1991.

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By his above act, the said Shri Arun Kumar Sharma has exhibited lack of devotion to duty and conduct unbecoming of a

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Government servant thereby violating sub-rules (ii) and (iii) of Rule 3(1) of CCS(Conduct) Rules, 1964."

2. The enquiry officer found all the aforesaid charges proved against the applicant. A copy of the enquiry report was served on the applicant to enable him to make a representation against the same which the applicant did on 4.3.1993. Proceedings were forwarded to the UPSC for their advice. The UPSC, however, pointed out certain technical infirmities in the enquiry report as the same was prepared on the basis of a single sitting and that too ex-parte. UPSC in the circumstances suggested a fresh reference to be made. Accordingly a fresh enquiry officer was appointed in January 1994. The aforesaid second enquiry officer submitted his report to the disciplinary authority in March 1998. Applicant in turn, submitted his representation against the report of the enquiry officer to the disciplinary authority wherein he has, inter alia, pointed out that the Inquiry report was completed without holding final round of hearing and that applicant presented himself for duty before the administration on at least three occasions. Since the enquiry report had ~~not~~ been completed without holding the final round of hearing on 22.4.1996 as directed by order dated 18.4.1996 and as the applicant had failed to supply material evidence in support of his claim that he had presented himself before the administration for joining duty, a fresh enquiry was directed. Therefore, the enquiry officer had been appointed.

3. We have heard the learned counsel appearing for the contending parties. We have also perused the

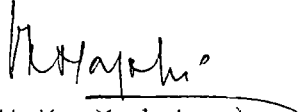
material documents which have been placed on record and we find that the aforesaid lacuna found in the enquiry officer's report will not justify a de novo enquiry being directed against the applicant. If the report has been submitted without holding the final round of hearing on 22.4.1996 as directed by order of 18.4.1996, the said lacuna can well be cured by continuing the proceedings from the stage of holding a final round of hearing which was scheduled for 22.4.1996. The enquiry officer who is now appointed will continue the enquiry from the stage of fixing the final round of hearing. Applicant in turn will be entitled to produce copies of his joining reports to make good his claim of having presented himself for duty before the administration on at least three occasions. He will further be entitled to lead such evidence as he may deem fit in his defence. Enquiry officer will thereafter proceed to submit his report in accordance with law. Both the applicant as also the enquiry officer are directed to cooperate in the enquiry which would enable the enquiry officer to submit his report expeditiously. The same be submitted within a period of three months from the date of service of this order. It is clarified that in case the applicant does not cooperate by remaining present on all the dates of hearing, enquiry officer will be at liberty to proceed ex parte and no grievance on behalf of the applicant will be entertained thereafter.


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4. Present OA in the circumstances is disposed of with the aforesaid directions without any order as to costs.


(V.K. Majotra)
Member (A)


(Ashok Agarwal)
Chairman

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