

(8)

Central Administrative Tribunal  
Principal Bench

O.A. No. 868 of 2000

New Delhi, dated this the <sup>14</sup>9 MAY, 2001

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

Mrs. Ruby Abraham,  
E-112, M.S. Apartments,  
K.G. Marg,  
New Delhi-110001.

.. Applicant

(By Advocate: Dr. M.P. Raju)

Versus

1. Union of India through  
the Secretary,  
Dept. of Personnel & Training,  
North Block,  
New Delhi-110001.
  2. The Secretary,  
Ministry of Surface Transport,  
Transport Bhawan,  
Parliament Street,  
New Delhi-110001.
  3. The Secretary,  
Dept. of Programme Implementation,  
Sardar Patel Bhawan,  
Parliament Street,  
New Delhi-110001.
  4. Union Public Service Commission  
through the Chairman,  
Dholpur House,  
Shahjan Road,  
New Delhi-110011.
- .. Respondents

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

ORDER

S.R. ADIGE, VC (A)

Applicant impugns respondents' order dated  
2.5.2000 (Annexure 1) dismissing her from service.  
She seeks reinstatement with consequential benefits.

2. Applicant was proceeded against  
departmentally vide Memo dated 13.9.98 (Annexure R-2)

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on the charge that

- i) As Under Secretary during the period commencing March, 1995 she referred to function as Under Secretary and also referred to recognise and obey the office order posting her as Under Secretary in Infrastructure Monitoring Division (IMD) of Dept. of Programme Implementation. She also did not attend to office work including urgent files put up to her and continued to defy the orders directing her to work in IMD.
- ii) She was unauthorisedly absent since 22.8.95 without intimation or sanction of leave. She had also wrongly maintained that since no proper office order had been issued allocating work to her or personal staff posted on her joining from 2.9.94, no office existed and therefore the question of attending of office did not arise and she was under no obligation to come to office even after 1.11.95. She had thus continued to absent herself wilfully from attending office and merely came since 1.11.95 to office to enquiring from the cashier about disbursement of salary for October, 1995, which she would not be paid in view of her unauthorised absences.

3. The aforesaid Charge Memo dated 13.9.96 issued by DP&T through Secretary, Ministry of Surface Transport was received by applicant on 13.9.96, but the same was returned back vide her letter dated 16.9.96 (Annexure R-3) questioning the competency of DP&T to issue the same. It was again served on applicant through the Secretary, Ministry of Surface Transport vide O.M. dated 18.9.96 (Annexure R-4), but the same was again returned by her vide letter dated 1.10.96 (Annexure R-6) contending that she was

not under the administrative control of Director (Vigilance) of DP&T and he did not have the authority to address her directly.

4. Thereupon applicant was placed under suspension vide DP&T's order dated 12.12.96 (Annexure R-6).

5. Applicant did not participate in the enquiry, as a result of which the E.O. was compelled to conduct them ex-parte. In his report the E.O. held that both charges stood proved.

6. A copy of the E.O's report was furnished to applicant on 11.9.98 (Annexure R-7) for representation, if any, but she returned the report on the ground that a memorandum from the Ministry of Personnel addressed to her directly could not be accepted as he had no direct dealings with Dept. of Personnel & Training (Annexure R-8).

7. After considering the E.O's findings and the materials on record the competent authority accepted those findings and came to the tentative view that a major penalty should be imposed on applicant. Thereafter UPSC was consulted; who in their advice dated 2.2.2000 after holding that applicant's conduct was totally unwarranted and unbecoming of a Government servant, advised that as both charges stood proved, the ends of justice would be met if the penalty of dismissal from service was imposed upon applicant. ~

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8. Thereupon the competent authority after independent examination of the materials on record including the UPSC's advice dated 2.2.2000 and after taking into account all the other facts and circumstances relevant to the case in their totality, concluded that both charges stood proved and considering the gravity of the same, imposed the penalty of dismissal from service upon applicant vide impugned order dated 2.5.2000 giving rise to the present O.A.

9. The first ground taken is that applicant was never posted or worked as Under Secretary in Dept. of Statistics as stated in impugned order dated 2.5.2000. The identity of applicant is not in doubt and even if applicant did not work as Under Secretary, Dept. of Statistics as contended by her, that is not sufficient to warrant interference in the O.A.

10. The next ground taken is that applicant was not afforded opportunity to show cause or defend her case. This ground is baseless in view of applicant's own failure to participate in the enquiry, compelling the E.O. to proceed ex-parte.

11. It has next been contended that the procedure for conducting ex-parte inquiry was not followed, but it has not been indicated as to which particular provision of rules/instructions was not adhered to. This ground is, therefore, rejected.

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12. The next contention that the charges are vague or without merit on the very face of it.

13. It has next been contended that notices of all hearings<sup>n</sup> in the ex-parte inquiry were not commensurated to applicant, but details of which particular hearing was not commensurated too applicant has not been specified.

14. It has next been contended that copies of oral and documentary evidence were not supplied to applicant but which particular piece of evidence was not supplied to applicant which prejudiced her in her defence, <sup>when</sup> ~~which~~ she herself failed to participate in the D.E. has not been specified. Hence this ground also fails.

15. It has next been contended that the penalty is disproportionately harsh. In our view the penalty is wholly proportionate to the misconduct which has been proved.

16. The next few grounds relate mainly to the order placing applicant under suspension and are not directly concerned with the impugned order dated 2.6.2000 dismissing her from service.

17. In the result the impugned orders warrant no interference. The O.A. is dismissed.  
No costs.

*A. Vedavalli*  
(Dr. A. Vedavalli)  
Member (J)

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