

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1451/89.

New Delhi, this the 27th day of April, 1994.

SHRI J.P. SHARMA, MEMBER(J).
SHRI S.R. ADIGE, MEMBER(A).

Shri R.S. Rawat,
Office Superintendent,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi.

...Applicant

By advocate : Shri Mahesh Srivastava.

VERSUS

1. Union of India, through its Secretary,
Ministry of Agriculture
(Department of Agriculture & Cooperative),
Krishi Bhawan, New Delhi.
2. Shri V. Kohli,
Director (Personnel) & Chief Vigilance Officer,
Govt. of India, Ministry of Agriculture,
Department of Agriculture & Cooperative,
Krishi Bhawan, New Delhi. ...Respondents

By advocate : Shri N.S. Mehta,

O R D E R (O R A L)

SHRI J.P.SHARMA :

The applicant is an employee of Delhi Milk Scheme and he was served with a memo of chargesheet for an alleged misconduct while posted as Office Superintendent on 26-3-1981. Four articles of charges were issued against the applicant. The applicant was served with an order of dismissal from service dated 28-3-81 but subsequently this order was set aside by the order dated 30-5-1983 by the President further directing that further inquiry should be held by the appropriate authority under CCS (CCA) Rules, 1965. In pursuance to that direction, a separate chargesheet was issued on 17-11-84 and Shri Satya Kam as inquiry office gave his report with the findings on 27-3-86 holding that the article of charges 1 to 4 have been proved against the applicant. He submitted this report along with the findings of the disciplinary authority to Deputy General Manager who by the order dated 10-4-1986 considered the report of the inquiry officer. The

disciplinary authority disagreed with the findings of the inquiry officer and gave three reasons in the impugned order of punishment and thereafter passed the order of punishment imposing the penalty of reduction of his pay by one stage in the pay scale of Rs.550-750 for a period of six months with immediate effect observing that the charged officer will earn increments of pay during the period of reduction and that on expiry of this period, this reduction will not have any affect in postponing the reduction in pay. This punishment was passed under the provisions of Rule 15(2) of the CCS (CCA) Rules, 1965. The applicant appealed against the same and thereafter also filed a review petition but both suffered the same fate of dismissal by the order of 30-10-86 and 31-12-88, respectively with the result order of punishment was upheld. The applicant thereafter filed this application in July, 1989.

2. The respondents contested this application and stated that the disciplinary authority had reasons to disagree with the findings of the inquiry officer and he has recorded the reasons of disagreement. The applicant has committed a serious misconduct and the punishment has been imposed by the disciplinary authority taking a lenient view of the matter on the basis of the evidence and documents produced before the inquiry officer. The applicant has not filed any rejoinder.

3. We heard the learned counsel Shri Mahesh Srivastava for the applicant and none is present on behalf of the respondents. Since this is an old case, we decide the case on merits on the basis of the pleadings of the parties particularly taking into account the averments made in the reply by the respondents.

4. Having heard the learned counsel for the applicant at length, we do not propose to decide the

issue of misconduct of the applicant on merit. It is because of the fact that the learned counsel for the applicant has raised an issue that in the case of disagreement by the disciplinary authority with the findings of the inquiry officer, the delinquent, i.e., the applicant should have been heard. Though there is no provision under rule 15 of the CCS (CCA) Rules, 1965 to give an opportunity to the delinquent/charged officer but on the principles of natural justice, the Hon'ble Supreme Court in the case of Narayan Mishra vs. State of Orissa reported in 1969 SLR vol.3 p.657 has considered a similar matter of an employee of the forest department and held that in the case of disagreement by the disciplinary authority with the findings of the inquiry officer, an opportunity should be given to the delinquent and he should be heard before passing the order finally by the disciplinary authority. The learned counsel for the applicant has also placed reliance on another judgment delivered by Principal Bench in Loken Sharma vs. Union of India reported in 1993 (2) SLJ CAT 283. We also find that the disciplinary authority has not disclosed the material evidence relevant to the misconduct committed by the applicant of insubordination against the superior officers or indulging in tactics relating to gherao, instigation etc. and only the reasons given are superficial. Even in administrative orders passed in quasi-judicial capacity should be speaking orders detailing the reasons for the conclusion ultimately drawn by the authority concerned. It was more so in this case as the reasonings given by the inquiry officer have also to be considered whether those are not based on the evidence produced before him or are based utterly on inferences and surmises and conjectures.

5. The appellate authority as well as the review authority also escaped this notice though they have touched this matter on merits. We have already observed in the earlier part of this order that we are not at all considering the material evidence regarding the article of charges pertaining to misconduct alleged against the applicant. We are only on the point whether the applicant should have been

given an opportunity by the disciplinary authority when he disagreed with the findings relevant to the applicant given by the inquiry officer.

6. In view of the above facts and circumstances, the application is partly allowed not on merits but on technical grounds quashing the impugned order of punishment of 10-4-1986 and so also the orders passed by the appellate as well as reviewing authority with the direction to the respondents to commence the inquiry from the stage of the report of the inquiry officer and the applicant be allowed to make a representation, if so advised, as he has already got the notice and the copy of the inquiry officer's report because he has filed a copy of the same in these proceedings. The applicant shall file a representation within four weeks from today and thereafter the disciplinary authority shall pass a speaking order on the basis of the evidence and records produced before the inquiry officer. The applicant shall be at liberty to assail any adverse order(s) first departmentally and if still aggrieved, according to law, before the competent forum. The applicant is said to retire in the month of June, 1994. The respondents therefore, decide the matter as expeditiously as possible. In the event the applicant is finally exonerated, he shall be given the benefit of the order if he had ^{not} been punished in pursuance of the earlier order of 10-4-86 of reduction in the pay scale. In that event, he shall be entitled to benefits of arrears but for that, the administration has to pass an order according to law. In the circumstances, Original Application is disposed of, accordingly. Costs on parties.



(S.R. ADIGE)

MEMBER (A)

'KALRA'



(J.P. SHARMA)

MEMBER (J)