

8

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A.NO.2088/89

New Delhi this the 4th day of May, 1994.

Shri Justice V.S. Malimath, Chairman.

Shri P.T. Thiruvengadam, Member (A).

Shri Kamla Prasad Pandey,  
Skilled Operator,  
Delhi Milk Scheme,  
West Patel Nagar,  
New Delhi.

...

Petitioner.

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.

3. Delhi Milk Scheme  
through its Chairman,  
West Patel Nagar,  
New Delhi.

...

Respondents.

By Advocate Shri N.S. Mehta, Sr. Standing Counsel.

ORDER (ORAL)

Shri Justice V.S. Malimath.

M.A. 1313/94 in  
O.A. 2088/89

M.A. Not opposed. It is allowed.

O.A. 2088/89

A disciplinary inquiry was held against Shri Kamla Prasad Pandey alongwith three other persons, namely, Sarvashri R.S. Rawat, D.S. Subhash Kundra and Suraj Bhan. on certain charges. The inquiry officer exonerated all of them. The

disciplinary authority disagreeing with the findings of the Inquiry Officer held the petitioner guilty and imposed the penalty of reduction of his pay by one stage in the scale of Rs.260-350 for a period of six months with immediate effect. The appellate authority directed that the period of suspension should be treated as duty to the extent of 95 percent. It is in this background that the petitioner has approached this Tribunal challenging the said Orders.

2. The principal contention of Shri Mahesh Srivastava, the learned counsel for the petitioner, is that the disciplinary authority did not give an opportunity of showing cause in the matter before disagreeing with the findings of the Inquiry Officer who had exonerated the petitioner. The law requires that such an opportunity should be given. We would have been justified in saying that we shall give such an opportunity, hear the petitioner's counsel and then record our own findings to avoid further protraction of litigation. That is not a course which should commend itself to us having regard to the fact that another case of Shri R.S. Rawat (O.A. No.1451/89) which arises out of the common inquiry, has been allowed by another Bench of the Tribunal which remitted that case to the disciplinary authority for taking action after giving an opportunity of showing cause to the petitioner. To avoid inconsistency particularly having regard to the fact that both the cases arise out of the common inquiry, we consider it just and proper to pass a similar order as no opportunity of showing cause in the matter was given to the petitioner before the disciplinary authority disagreed with the findings of the Inquiry Officer.

3. For the reasons stated above, this application is allowed. The orders of the disciplinary authority dated 10.4.1986, appellate authority dated 30.10.1986 and that of

10

the order of the reviewing authority dated 21.12.1988 are hereby quashed and the case is remitted to the disciplinary authority to give an opportunity to the petitioner of showing cause in the matter before taking any further action. It would be desirable that the disciplinary authority disposes of this case along with the case of Shri R.S. Rawat as both of them arise out of the same inquiry, with utmost expedition. No costs.

*P.T. Thiruvengadam*  
(P.T. Thiruvengadam)  
Member(A)

*V.S. Malimath*  
(V.S. Malimath)  
Chairman

'SRD'  
040594