

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

2

OA
Regn.No 2120/1989

Date of decision: 15-12-1989.

Shri Narayan Singh

...Applicant

Vs.

Union of India & Others

...Respondents.

For the Applicant

...Shri S.K. Dubey,
Counsel

For the Respondents

...Shri P.P. Khurana,
Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *yes*
2. To be referred to the Reporters or not? *yes*

(The Judgment of the Bench delivered by Hon'ble Shri P.K. Kartha, Vice Chairman(J)).

The applicant, who has retired from the post of Office Superintendent from the office of the respondents, filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying that the impugned memorandum dated 14th August, 1988 whereby the respondents have initiated departmental proceedings against him under Rule 12 of the CCS(CCA) Rules, 1965, ^{be} *quashed* and for directing the respondents not to take proceedings pursuant to the said memorandum. He has also sought for

releasing to him the pensionary benefits by way of gratuity and commutation of pension along with penal interest.

2. The application came up for admission on 12.12.1989 when we felt that it could be disposed of at the admission stage itself.

3. The facts of the case in brief are as follows. The applicant was initially appointed as Civilian School Master at the EME Centre, Secunderabad in 1954. In 1967 he was appointed as Lower Division Clerk (Selection Grade) and posted at the Delhi Cantt. In 1969 he was promoted as Upper Division Clerk and in 1987 he was promoted as Office Superintendent Grade II. He was due to retire on attaining the age of superannuation on 31st August, 1988. The impugned memorandum dated 14th August, 1988 was served on him while he was in service.

4. The Articles of charge framed against him were the following:-

" That the said Shri Narain Singh, Offg Office Supdt Gde II while functioning as Permt UDC in 505 Army Base Wksp Delhi Cantt-10 committed the following as established in the Court of Inquiry conducted by 505 Army Base Wksp during Oct 87 onwards, in which the circumstances under which Shri Narain Singh indulged himself in the activities reported by CBI vide their self contained note/report:-

(a) Gross Misconduct

(b) Offences involving dishonesty

ie. he was running bogus travel agencies and were issuing false bus tickets/cash receipts for preferring LTC claims by employees of 505 Army Base Wksp, Delhi Cantt".

(vide page 57 of the Paper-Book)

5. The statement of imputations of misconduct or misbehaviour in support of the Articles of Charge is as follows:-

" In that the said Shri Narain Singh, Offg Office Supdt Gde II while functioning as Permt UDC in 505 Army Base Wksp Delhi Cantt committed the following, as established in the Court of Inquiry conducted by 505 Army Base Wksp during Oct 87 onwards in which the circumstances under which Shri Narain Singh indulged himself in the activities reported by CBI vide their self contained note/report:-

(a) The said Shri Narain Singh was running bogus travel agency and issuing false bus tickets/cash receipts to the employees of 505 Army Base Wksp Delhi Cantt for preferring LTC claims by the employees of 505 Army Base Wksp.

(b) The following Govt. servants of 505 Army Base Wksp Delhi Cantt have taken tickets from the said Shri Narain Singh and preferred LTC claims based on the tickets given by the said Shri Narain Singh and give him commission:-

- (i) T/213 B VM AFV Sh. Balram Dass
- (ii) T/988 B/Smith Shri Siri Ram
- (iii) T/2235 T/S Shri Navrang Ginsh
- (iv) T/2599 Tnr Shri Ramsaran
- (v) T/2745 Ftr Shri Nath Ram
- (vi) T/3533 B/Smith Shri Raghbir Chand".

(Vide pages 57-58 of the Paper-Book)

6. The contentions raised by the applicant may be summed up as follows:-

(i) The impugned departmental proceedings are vitiated by bias and are arbitrary, illegal and contrary to the procedure of law and in violation of principles of natural justice.

(ii) There had been an inordinate delay for a period of 8 to 10 years for initiating the proceedings. The impugned memorandum has been issued to him on the verge

of his retirement with malafide intentions and to harass and humiliate him.

(iii) The Commandant who has issued the impugned memorandum in his capacity as the disciplinary authority is not empowered to do so. The said memorandum was also not drawn up by the competent authority.

(iv) The charges are not specific and precise but are vague.

(v) No reasonable opportunity has been given to him to put forward his defence.

(vi) Even after his retirement, the Inquiry has been deliberately delayed.

(vii) Similar proceedings were initiated against two other officials for similar charges. The inquiries have been completed in those cases and only minor punishments have been awarded.

(viii) The CCS(CCA) Rules are arbitrary and ultra vires as the same does not prescribe any time limit to take action with regard to the offence as provided in the other acts, i.e., Criminal Procedure Code, Army Act and Rules etc.

7. On 27.10.1989 notice was issued to the respondents on admission and interim relief returnable on 12th December, 1989. Shri P.P. Khurana, the learned counsel for the respondents appeared on 12.12.1989 and opposed the admission of the application without filing any counter-affidavit. He contended that the application has been filed prematurely, that ^{the} provisional pension has been released

to the applicant, that the applicant participated in the departmental enquiry proceedings and that the Inquiry Officer has completed the inquiry and submitted his report to the Disciplinary Authority. He has thus come to the Tribunal at the threshold and without exhausting the remedies available to him under the relevant service rules.

8. We have heard the learned counsel of both parties and have gone through the records of the case carefully. In our opinion, there is no good ^{ground or} justification for entertaining the present application at this stage. The applicant will be entitled to urge before the Appellate Authority and the Revisional Authority all his contentions which have been raised in the application before us. We do not consider it appropriate to entertain the present application without giving an opportunity to the Appellate and Revisional Authority to consider the various contentions of the applicant and to give their decisions in the matter.

9. In the facts and circumstances of the case we hold that the present application is not maintainable at this stage and the same is dismissed at the admission stage itself. The applicant will, however, be at liberty to file a fresh application in accordance with law, after he has exhausted the remedies available to

7

him under the relevant service rules. We direct that the Disciplinary Authority should pass his orders on the inquiry, as expeditiously as possible, but in no event later than 2 months from the date of communication of a copy of this order. Thereafter, in case the applicant prefers an appeal/revision, the authority concerned should dispose of the same by passing a speaking order as expeditiously as possible, but in no event later than 3 months from the date of receipt of such appeal/revision. The parties will bear their own costs.

D. K. Chakravorty
(D. K. CHAKRAVORTY)
MEMBER (A)
15/12/88

P. K. Kartha
(P. K. KARTHA)
VICE CHAIRMAN (J)
15/12/88