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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No. 876/89.

Date of decision. 5.8.1994

HON'BLE SHRI S.R. ADIGE, MEMBER (A)

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)

R.S. Sisodia,
s/o Shri N.S. Sisodia,
A-87, Inderpuri,
New Delhi-110 012.

.. Applicant

(Applicant in person)

versus:

1. Union of India
through the Secretary
to the Government of India,
Ministry of Agriculture
(Department of Agriculture & Cooperation),
Krishi Bhawan,
New Delhi.

2. Union Public Service Commission
through its Chairman,
Dholpur House,
Shahjehan Road,
New Delhi.

3. Shri S.P. Jakhanwal,
Joint Secretary,
Ministry of Defence,
South Block,
New Delhi.

.. Respondents

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

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[Hon'ble Smt. Lakshmi Swaminathan, Member (Judicial)]

In this application filed under Section 19 of
the Administrative Tribunals Act, 1985, the applicant
has challenged the validity of the order passed by the
Respondents dated 19th May, 1988 imposing on him the
penalty of with-holding of increment for one year with

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cumulative effect. The penalty order had been passed by the competent authority, namely, the President after holding disciplinary proceedings against the applicant.

2. The applicant, who argued the case in person, submits that the findings of the Enquiry Officer vide his report dated 20th August, 1986 and of the Disciplinary Authority are perverse, inasmuch as the conclusions arrived at are contrary to the evidence on records. The second ground challenging the validity of the impugned order is that the applicant was not supplied with a copy of the enquiry report nor given an opportunity of being heard with regard to the same, before the order imposing the penalty was passed.

3. The applicant, who was working as Assistant Commissioner (Refrigeration), had been assigned certain duties which, included work relating to 100% export oriented units/plants. With the approval of the Minister Incharge and on the promotion of another officer, namely, Shri S.K. Das to the post of Deputy Commissioner (Ind) with effect from 29.5.1984, the Respondents, vide their order dated 14.6.1984, allotted the work relating to Multilateral and bilateral assistance projects/quarterly review of Externally Aided Projects, which was looked after by the applicant to the said Shri S.K. Das.

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Consequent on this re-allocation of work, the applicant was asked to hand-over all the files immediately to Shri S.K. Das to enable him to deal with the subjects. The applicant made a representation to his superior officer against such re-allocation of work which was considered. Further instruction was issued to him on 24.7.1984 asking him to comply with the instruction contained in the aforesaid office order dated 14.6.1984 by 12 noon on 25.7.1984. The applicant was also given an opportunity to be present in person in the room of the Joint Secretary (FY & T) at 1.15 P.M. on 25.7.1984. The applicant contends that with this re-allocation of work, he was being left with no work at all and he would be hard-pressed to write his self-assessment report at the time of writing the annual confidential report.

4. The Respondents have, however, stated in their reply that the applicant had been assured that further allocation of work would be considered and that the Government order has sanctity and should be complied with. On the applicant not handing over the files as directed, the memorandum containing four charges was issued to him. The nature of charges briefly are as follows:-

(i) That the applicant continued to retain

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the records of cases as mentioned above,
with him and thereby failed to comply with
the written order of the competent authority.

(ii) With reference to the meeting on 25.7.1984
at 1.15 PM in the room of the Joint Secretary
(FY.&T) on being advised to comply with the
orders issued by the department to hand over
the files to D.C.(Ind), it has been alleged
that the applicant refused to hand-over the
files and also threatened the J.S.(FY.&T) of
dire consequences.

(iii) That the applicant, while functioning as
Assistant Commissioner (REF), dealt with
the application of four private companies
for import of fishing net etc. The Joint
Secretary concerned had, vide his note
dated 11.1.1984 marked the file to F.D.C.
drawing his attention to his marginal query
on 29.12.1983 about the missing pages 5 to 6
of the note portion of the said file. This
file had been marked to the applicant and
dealt with by him. The allegation was that
the applicant did not give any reply to the
query and closed the file.

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(iv) That in respect of two applications received from S/Shri R. Devadas and M.K. Ramdas relating to the grant of industrial licences under the 100% export oriented units, the applicant had failed to handle the cases in the manner expected of a gazetted officer. The allegations, inter-alia, were that although he was handling the licence cases, he had made no arrangement for handling the first case when he was on leave on 8.12.1982 ; and that in the second case he had not obtained clear direction from his superior as to the stand that should be taken by him during the meeting. He had attended the meeting of the Board of Industrial Approval held on 22.4.1983 but did not mention that at the time of consideration of the case by the Board he had conveyed the support of his department and the Board approved the grant of licence to the firm.

13/ In all the four charges, the allegations were that the applicant had acted in a manner unbecoming of a Government servant in contravention of rule 3 of the CCS (Conduct) Rules, 1954.

5. The Enquiry Officer, after detailed examination of the evidence and materials produced before him came to the following conclusions :-

Article-I - Though factually from the date of conveying written decision of the deptt. on 24.7.84 to hand over the files to Sh.S.K.Das, the delay involved in actual handing over the files is of about 10 days or so which may not be called delay as such, the spirit of the charge that the OO did not intentionally comply with the order to hand over the files etc. sustains.

Article-II Stands established.

Article-III Stands established.

Article-IV - The charge in regard to the case of Sh.R. Devdas does not stand established. The charge in regard to the case of Sh. M.K. Ramdas stands established.

6. It is seen from the findings of the Enquiry Officer that he had found the articles of charges (i), (ii) and (iii) established and article (iv) as partly established. The applicant's contention is that the findings of the Enquiry Officer and the Disciplinary Authority are perverse

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as there is no evidence on which they could have come to the aforesaid conclusions. The applicant referred to the evidence produced before the Enquiry Officer including his representation dated 21.6.1994(p.201) to show that since his request for continuing to do work relating to Industrial Licensing for fish processing units was to be reviewed, as per the orders of F.D.C. dated 14.6.84 and 24.7.84, he had not handed over the files to the D.C.(Ind.) He also took us through various annexures of the enquiry report in detail to show that the Enquiry Officer could not have reasonably come to the conclusions he had done in the four charges as there were contrary and conflicting evidence before him.

7. We have carefully gone through the records of the case, including the annexures pointed out by the applicant. The applicant's contention amounts to setting aside the conclusions arrived at by the competent authority and substituting the same, which cannot be done as this Tribunal does not exercise an appellate jurisdiction over the administrative decisions.

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In Union of India v. Permananda / AIR 1989 SC 1185]

the Supreme Court held:

"the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. It is appropriate to remember that the power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Art. 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved mis-conduct, the Tribunal has no power to substitute its own discretion for that of the authority."

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8. On perusal of the evidence and material placed before the Enquiry Officer and the Disciplinary Authority, we are of the view that the conclusions arrived at by them and the penalty imposed are neither arbitrary nor perverse. The applicant has admitted that he has, no doubt, delayed handing over the files for whatever reasons he might have, but that does not absolve him of the charge of dis-obeying Government orders. The applicant has been afforded reasonable opportunity to defend his case as provided under the CCS(CCA) Rules, 1965. We also hold that there was sufficient evidence on record to sustain the other charges against the applicant. Hence, we reject the first plea of the applicant.

9. The second ground taken by the applicant is ~~the~~ non-supply of the enquiry report before passing the penalty order dated 19th May, 1988. Having regard to the judgment of the Supreme Court in Union of India v. Mohd. Ramzan Khan [AIR 1991 SC 147] case followed in Director, ECIL, Hyderabad v. Karunakar [1993 Vol. II JT (SC) 1] and Commandant, Central Industrial

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Security Force & Ors v. Gopal Singh /AIR 1994 SC 573]

it is settled law that since this order of punishment has been passed before the date of judgment in Ramzan Khan's case, namely, 20th November, 1990, this ground of challenge based on the failure to furnish the enquiry report cannot be sustained.

10. In the result, we find that this is not a case which warrants any interference. The application is dismissed. No costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member(J)

S.R. Adige
(S.R. Adige)
Member(J)