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Central Administrative Tribunal
Principal Bench: New Delhi

OA No.213/88

Date of decision: 01.06.1993.

Shri O.P. Jain

...Petitioner

Versus

Union of India

...Respondents

Coram:- The Hon'ble Mr. I.K. Rasgotra, Member (A)
The Hon'ble Mr. J.P. Sharma, Member (J)

For the petitioner None

For the respondents Shri P.H. Ramchandani, Senior
Counsel.

Judgement(Oral)
(Hon'ble Mr. I.K. Rasgotra)

Shri T.C. Aggarwal, the learned counsel for the petitioner appeared in the forenoon and submitted that this case may be adjourned. We advised the learned counsel that the case cannot be adjourned at this is at serial No.3 of today's regular cause list and the first 10 cases are posted for peremptory final hearing. When the case was taken up at 2.45 p.m. Shri T.C. Aggarwal, learned counsel for the petitioner was not present. We have, therefore perused the O.A. and heard the learned counsel for the respondents Shri P.H. Ramchandani.

2. The facts of the case briefly are that the petitioner who is working as Assistant Engineer in Doordarshan was served a chargesheet on 20.10.1987 under Rule 16(1)(B) of CCS (CCA) Rules, 1965 by the Director General, Doordarshan. The statement of article of charge framed against him indicates that the petitioner had allegedly committed irregularities in the appointment of Technicians and Helpers at T.V. Maintenance Centre, Sriganaganagar and he had also not observed the roster point for reserved vacancies. The appointment letters were issued by him without the approval of the head of

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the office who is the appointing authority for such categories of staff. He was also considered to be guilty of insubordination, as he had not implemented the directions issued by the superiors. The petitioner submitted his explanation to the disciplinary authority. Normally in cases of minor penalty chargesheet, the disciplinary authority is not required to hold a regular enquiry. On the basis of the defence submitted and after taking into consideration all relevant factors the case can be decided by the disciplinary authority finally. The petitioner no doubt has right to file an appeal. In this case, however, the petitioner, after he filed his defence statement, asked for a personal hearing by the Director General. The Director General, Deorad, No gave him a personal hearing and as a result decided that a regular enquiry be conducted in the matter on 20.10.1987 although the chargesheet was for a minor penalty. In this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985 on 4.2.1988 the petitioner has prayed for the following reliefs:-

- i) to issue appropriate orders/directions quashing the impugned chargesheet dated 16/20.10.1987 issued under Rule 16(1)(B) of CCS (CCA) Rules;
 - ii) to issue directions for withholding enquiry;
 - iii) to direct the respondents to produce original documents referred to in Annexure-A-3 annexed to his explanation and other documents/statements recorded in the preliminary enquiry.
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3. When this case came up for hearing on interim relief the Tribunal passed the following order on 22.3.1988:-

"Heard the applicant and representative of the respondents. It is conceded that the original charge-sheet was recast and a fresh charge sheet was served on the applicant and before his defence to the fresh charge-sheet was available, the Inquiry Officer was appointed. In the circumstances, we feel that further enquiry proceedings should be stayed till further orders."

4. The respondents have explained how the chargesheet was recast in paragraph-6.2 of their counter-affidavit. It has been stated that the applicant was initially chargesheeted for a minor penalty vide D.G. Doordarshan Memo dated 3.3.1986 for making irregular appointments at Doordarshan Maintenance Centre, Sriganaganagar. The petitioner submitted his reply on 22.3.1986 and on 2.5.1986 addressed to Director General, Doordarshan. He denied the charges and sought personal hearing to explain his conduct. The D.G. Doordarshan granted him personal hearing and consequently decided to institute a regular enquiry in order to afford full and reasonable opportunity to the petitioner to prove his innocence. The chargesheet was recast as per Rule 16(1)(B) of CCS (CCA) Rules and the recast chargesheet was served on him on 16/20.10.1987. The original chargesheet of 3.3.1986 had contained four charges whereas the chargesheet served on 20.10.1987 contains only three charges out of the four framed earlier vide chargesheet dated 3.3.1986. One charge was dropped. Since the petitioner had denied the charges earlier, Inquiring Authority and the Presenting Officer were appointed. The main

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ground of assailing the chargesheet taken by the petitioner is that simultaneously with the issue of the chargesheet the enquiry officer was also appointed and he was not given an opportunity to explain his case before the enquiry officer was appointed. This has been countered by the respondents in their reply. They have stated that the petitioner had earlier denied the same charges in reply to the chargememo dated 3.3.1986. Therefore, the disciplinary authority did not consider it necessary to wait for petitioner's denial once again and the orders of appointment of enquiry officer and presenting officer were issued on the same date on which the chargesheet was issued. Actually the enquiry was started after the receipt of the petitioner's written statement in which he had denied the charges. They, therefore, contend that there was no bias against him.

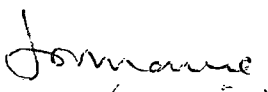
5. We have considered the matter carefully and we do not see any reason to disbelieve the explanation given by the respondents in their counter-affidavit. The appointment of the Enquiry Officer and Presenting Officer on the same day as the recast chargesheet was issued has not prejudiced the petitioner in any manner. Since the chargesheet is already served and it is the intendment of the respondents to grant him full and fair opportunity to defend himself in the regular enquiry, the proper course would be that the enquiry should be completed as early as possible. The petitioner should cooperate in the process.


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6. In the above facts and circumstances of the case, we are of the opinion that O.A., at this stage, is devoid of merit and misconceived and the same is dismissed. The interim order passed on 22.3.1988 is hereby vacated. No costs.

7. The respondents shall be free to proceed with the enquiry and complete the same with utmost expedition.


(J.P. Sharma)
Member (J)


(I.K. Rasgotra)
Member (A)

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