



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.28/2021

This the 21st day of January, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd.Jamshed, Member (A)**

R. C. Dhankar,
Aged 59 years,
S/o Late ShriBhim Singh,
Director, Group A,
Department of Consumer Affairs,
Ministry of Consumer Affairs, Food and Public
Distribution, Room No. 251, KrishiBhawan,
New Delhi – 110001.

Resident of:

117, Sector -12, R. K. Puram,
New Delhi – 110022.

...

Applicant

(through Mr. Tushar Ranjan Mohanty, Advocate)

Versus

Union of India though,
The Secretary,
Department of Personnel and Training,
North Block, New Delhi- 110001.

... Respondents

(through Mr. Gyanendra Singh, Advocate)

ORDER (Oral)

Justice L. Narasimha Reddy, Chairman:

The applicant is working as Director in the Department of Consumer Affairs. He was issued a minor penalty charge memorandum under Rule 16 of CCS (CCA) Rules, 1965 (CCS Rules). On 01.07.2019. It was in relation to a case pertaining to CBI RC No.4E/2003. He filed this OA with a prayer to set aside the charge memo.

2. The applicant submitted an explanation running into 200 pages, and he has also made a request to conduct a detailed enquiry. The request made by the applicant for conducting a detailed enquiry was dealt with in a memorandum dated 22.12.2020 and the plea was rejected. This OA is filed challenging the order dated 22.12.2020, and with a prayer to direct the respondents to hold an inquiry into the minor penalty charge sheet dated 01.07.2019.

3. The applicant contends that the allegations made against him for the minor penalty charge is with reference to an incident which took place long ago and it would reflect upon his conduct and integrity, and in that view of the matter holding of detailed inquiry is necessary.

4. We heard Mr. Tushar Ranjan Mohanty, learned counsel for the applicant and Mr. Gyanendra Singh, learned



counsel for the respondents at length and perused the entire records.

5. The minor charge memorandum dated 01.07.2019 issued to the applicant was only on the allegation that he played a role in closing a case pertaining to CBI RC No.4(E)/2003-New Delhi without obtaining the approval of the competent authority. Beyond that, nothing was alleged against the applicant. The applicant has denied the allegations by placing reliance upon certain documents or by putting forward his contentions. Only three documents are raised by respondents, namely:-

- “1. Copy of OM No.003/FNC/007-22754 dated 24.04.2006.
- 2. Copy of Department of Revenue’s OM No.9/4/2005-ED dated 12.01.2012.
- 3. Copy of note sheet File No.003/FNC/007 (1 page).”

6. The applicant, however, wanted some more documents to be furnished. In the process, he did not submit the explanation within the stipulated time of 10 days. It was only on 11.05.2020 that he submitted his explanation, that too, by calling it a preliminary one and it runs into nearly 200 pages, together with the enclosures. In the beginning of the explanation, he made a request that a detailed enquiry be conducted. The respondents considered the same and issued



the impugned order dated 22.12.2020, and in Para 5 of the impugned memorandum, it is observed as under:-



“5. The representation dated 11.05.2020 of Shri Dhankar has been considered duly by the Competent Authority as per the procedure laid down in DoPT OM No.11012/18/85-Estt.(A) dated 28.10.1985. Accordingly, it has been found that the evidence on record itself provides sufficient ground to proceed with further action in accordance with Rule 16 of CCS(CCA) Rules, 1965 without holding a formal inquiry, as the records *prima facie* indicate that Shri Dhankar’s alleged misconduct violated Rule 3(1)(ii) and Rule 3(1)(iii) of the CCS (Conduct) Rules, 1964, warranting imposition of minor penalty against him. Further, it was seen that the CO has neither submitted his specific replies about the charges framed against him based on evidence on record, nor rebutted them, despite the fact that he was given an opportunity to do so vide the afore-mentioned Memorandum dated 01.07.2019. Hence, after considering all the relevant material available, *inter alia* the evidence on record, the submissions of Shri Dhankar in his representation dated 11.05.2020 and the facts of the case, the Competent Authority has decided to reject Shri Dhankar’s request for holding a formal inquiry in this matter.”

7. Here, it becomes necessary to take note of CCS Rules. Whenever the Disciplinary Authority (DA) proposes to impose minor penalty, a charge memorandum under that provision is issued. Obviously because the outcome of the proceedings is not serious, no enquiry is held in respect of charge memorandum issued under Rule 16 of CCS Rules. However, the DAIs vested with the power to conduct an enquiry, in case he is of the opinion that it is necessary. Rule 16 (1) reads as under:-

“(1) Subject to the provisions of sub-rule (5) of rule 15, no order imposing on a Government servant any of the penalties

specified in clause (i) to (iv) of rule 11 shall be made except after-

- (a) informing the Government servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him reasonable opportunity of making such representation as he may wish to make against the proposal;
- (b) holding an inquiry in the manner laid down in sub-rules (3) to (23) of rule 14, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary”



8. Normally, the decision to conduct the enquiry is taken by the DA on his own accord, after taking into account, the nature of allegations and that of denial by the employee. Rarely, we come across an incident where the employee himself makes a request for conducting departmental inquiry. Another aspect is that the respondents themselves did not cite any witnesses. It become somewhat untenable to conduct an inquiry.

9. Be that as it may, the applicant has virtually taken the DA for a ride. The submission of a preliminary explanation running into 200 pages is nothing but a step taken, but to browbeat the DA. Once can easily imagine the size of the actual explanation that may be submitted by the applicant, if the preliminary explanation is an indication. The Tribunal does not encourage such a tendency.

10. Reliance is placed upon the observation made by the Hon'ble Supreme Court in ***M.V. Bijlani Vs. UOI & Ors.***, (2006) 5 SCC 88. That was a case in which a minor penalty

was imposed by the DA without even calling for an explanation. It was held that even where the minor penalty is imposed, the employee must be accorded an opportunity.

It was not observed that holding of the enquiry in the proceedings referable to Rule 16 is mandatory. We verified from the learned counsel for the applicant as to whether there is any judgment of the Hon'ble Supreme Court wherein it was held that conducting an inquiry is mandatory in such cases and he said that there is no such judgment.

11. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.



(Mohd.Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

Pj/jyoti./ankit/sd