

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/00286/2020

Date of CAV : 20.01.2021

Date of Pronouncement : 02.02.2021.



Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member

J.Chakreshwar S/o J.Mallappa,
Aged about 55 years, Gr.'C',
Occ : Master Craftsman (Turner),
Ordnance Factory Medak,
Yeddumailaram, Sangareddy District.

...Applicant

(By Advocate : Dr. A. Raghu Kumar)

Vs.

1.Union of India rep by its Secretary,
Ministry of Defence,
Sena Bhavan, New Delhi.

2.The Director General and Chairman,
Ordnance Factory Board, 10/A, SK Bose Road,
Kolkata – 700001.

3.The Senior General Manager,
Ordnance Factory Medak,
Yeddumailaram, Sangareddy (TS).

....Respondents

(By Advocate : Mrs. K. Rajitha, Sr. CGSC)

ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2 The OA is filed challenging the penalty imposed upon the applicant vide memo dated 23.03.2018, as confirmed by the appellate authority on 23.01.2020.

3. Brief facts of the case are that the applicant, while working as Turner in the respondents organization, was deputed to Ordnance Factory Muradhnagar for the period from 23.2.2015 to 1.3.2015 on official duty and during the said period, he stayed in a hotel. On returning from tour, applicant submitted the bill issued by the hotel, which was not only rejected, but Rule 14 charge sheet was issued on 25.8.2016, on the ground that the applicant did not stay in the hotel, leading to imposition of penalty on 23.3.2018 reducing the pay by 2 stages for 2 years with no earning of increments during the period of reduction. Challenging the penalty, OA 420/2018 was filed, which was disposed directing disposal of appeal preferred. Accordingly, appeal was examined and rejected on 23.1.2020. Hence the OA.

4. The contentions of the applicant are that he was deputed for the first time on tour and that he believed that the hotel management gave a genuine bill. Applicant was not aware that hotels do maintain 2 sets of bills. Respondents claim that the bill was fake and therefore, the person who gave the bill on behalf of the hotel should have been produced as witness for cross examination during the inquiry. The documents produced have to be authenticated by the author of the document in the inquiry. Discreet

inquires were made by the respondents with the hotel management at the back of the applicant. Basic principles of evidence were not followed. Articles 14 & 16 of the Constitution were violated.



5. Respondents, *per contra*, state that the applicant when sent on deputation to Muradnagar on official duty, stayed in Prakash Guest House, New Delhi and submitted the TA bill. When the hotel management was contacted about the genuineness of the bill, it was intimated by e-mail on 27.7.2015 that the bill was not issued by them. Thereafter, an officer from the vigilance wing went over and stayed in the same guest house and during the stay, when enquired it was reconfirmed by the guest house representative that the applicant did not stay in the hotel/ guest house. The bill produced by the officer and the one submitted by the applicant were different. Hence, disciplinary action was taken for submitting a fake bill and penalty in question was imposed. As per the directions in OA 420/2018, appeal preferred was examined and negated on 23.1.2020. Respondents cited the judgments of the Hon'ble Supreme Court in support of their judgments.

6. Heard both the counsel and perused the pleadings on record.

7. I. Applicant who was working as a turner in the respondents organisation was deputed to Muradnagar and on return, when he submitted the TA bill, respondents issued Rule 14 charge sheet on 25.8.2016 alleging that the hotel bill submitted was not genuine. The article of charge is as under:

“Article – I

That the said Shri J. Chakreshwar, while functioning as MCMT (Turner)/ Ordnance Factory Medak, proceeded on Temporary Duty (TD) to O.F. Muradnagar from 23.02.2015 to 01.03.2015. After completion of the said TD, Shri J. Chakreshwar submitted tour details including details of his stay at Prakash Guest House, 5606, Basant Road, Pahar Ganj, New Delhi – 110055 from 24/02/2015 to 28/02/2015. During routine checking, and investigation done in the matter, it is seen that Shri J. Chakreshwar did not stay in Prakash Guest House, 5606, Basant Road, Pahar Ganj, New Delhi – 110055 from 24/02/2015 to 28/02/2015 and the bill for an amount of Rs.7200/- submitted by him is fake.



Thus, by the above act, Shri J. Chakreshwar has exhibited lack of integrity & honesty and acted in a manner unbecoming of a government servant and thereby violated Rule 3(1)(i) & (iii) of CCS (Conduct) Rules, 1964.”

Disciplinary proceedings were initiated by appointing I.O/P.O and the I.O held the charge as proved. Based on the I.O report, disciplinary authority imposed the penalty as under, on 23.3.2018.

“Reduction of pay by two stage for a period of two years is hereby imposed with the direction that DGS will not earn increment during the period, the reduction will be with cumulative effect and will have effect of postponing future increments also with immediate effect. “

II. When the penalty was challenged in OA 420/2018, it was directed to dispose of the appeal. Accordingly, appeal was disposed rejecting the request made vide order dt. 23.01.2020. Applicant claims that it was the first time he went on tour and that he belongs to the lower rung of the administration. Therefore, he did not know that hotels do maintain 2 sets of bills. Hence, the bill given by the guest house was submitted and that he is not at fault. In this regard, when the respondents made a routine vigilance check of the bill submitted by addressing the guest house, it was intimated by the representative of the guest house, Sri Vijay Khurana, vide his e-mail dated 23.4.2015 that the bill was not issued by them. Further, respondents have sent a vigilance officer from their Pune office, to recheck



the veracity of the stay of the applicant in the said hotel. On inquiry by the vigilance officer, it was reconfirmed by the hotel management that the applicant did not stay in the hotel and in particular, it was mentioned that there was no kitchen in the guest house to issue a bill for food charges. The bill issued to the vigilance officer was different from that of the one produced by the applicant. Applicant contests that the employee of the hotel who issued the bill was not produced as a witness and that every document appended to the charge sheet has to be authenticated by the author of the document during the inquiry, as per principles of Evidence Act. In this regard, we observe that in departmental inquiries, strict principles of Evidence Act need not be applied. Material produced, which is acceptable to a prudent mind would be adequate to be considered during an inquiry. The intrinsic aspect to be looked into is objectivity. The respondents have done the vigilance check of the bill submitted in a routine manner. They did not simply rely on the email of the guest house but deputed a vigilance officer to reconfirm the authenticity of the bill submitted by the applicant. Disciplinary inquiry was conducted by appointing an IO/PO and the applicant was given full opportunity to defend himself in the inquiry. Documents required have been furnished and the applicant participated in the inquiry. Thereafter, penalty was imposed. Therefore, it cannot be said that the Principles of Natural justice have not been followed. The respondents have been objective in their approach by taking necessary steps before charging the applicant and a regular disciplinary inquiry was instituted before imposing the penalty. Applicant insisting that the representatives of the hotel have to be produced for cross examination would not hold good. The principle of residuum would not

operate in a case of this nature. In a departmental inquiry, it would suffice if there is some evidence and in the instant case, there was adequate evidence for the Inquiry officer to hold the charge as proved. Sufficiency of evidence in a domestic inquiry is beyond scrutiny. The report of the vigilance officer itself is evidence to substantiate the aspect that the applicant did not stay in the guest house. Our above remarks are based on the observations of the Hon'ble Apex Court in **State of Haryana v Rattan Singh**, 1977 AIR (SC) 1512 : (1977 (1) SLR 750 (SC), as under:



3. In the case of *Rattan Singh (supra)*, the Honourable Apex Court has held that strict and sophisticated rules of evidence would not apply to domestic enquiries as like the applicability of the [Indian Evidence Act](#) to the matters before the Courts. Specific observations of the Honourable Apex Court are found in paragraph 4 which read as under :-

"It is well settled that in a domestic enquiry the strict and sophisticated rules of evidence under the [Indian Evidence Act](#) may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and administrative tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the [Indian Evidence Act](#). For this proposition it is not necessary to cite decisions nor text books, although we have been taken through case law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fairplay is the basis and if perversity or arbitrariness, bias or surrender or independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunals cannot be held good. However, the courts below misdirected themselves, perhaps in insisting that passengers who had come in and gone out should be chased and brought before the tribunal before a valid finding could be recorded. The 'residuum' rule to which counsel for the respondent referred, based upon certain passages from American Jurisprudence does not go to that extent nor does the passage from *Halbsbury* insist on such rigid requirement. The simple point is, was there some evidence or was there no evidence - not in the sense of the technical rules governing regular court proceedings but in a fair commonsense way as men of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the court to look into because it amounts to an error of law apparent on the record. We find, in this case, that the evidence of Chamenal, Inspector of the flying squad, is some evidence which has relevance to the charge levelled against the respondent. Therefore, we are unable to hold that the order is invalid on that ground".

III. Further, in the departmental proceedings, it is the preponderance of probability, which is the basis for holding the charge as

proved. In the instant case, food charges were claimed in the bill submitted, when there was no kitchen in the guest house in which the applicant stated to have stayed as per the bill submitted. Moreover, a vigilance officer went over to the guest house, stayed there and the bill produced by him is different from the one produced by the applicant. Besides, representative of the hotel has reconfirmed that the bill under question was not issued by them and that the applicant did not stay in the guest house referred to. Therefore, as per the principle of preponderance of probabilities, the action of the applicant in submitting the bill in question is liable to be questioned on grounds of improper conduct.



IV. The averment of the applicant that he is new to going on tour and therefore, did not have an idea that hotels maintain 2 sets of bills will not sustain because of the detailed inquiries conducted by the respondents before arriving at the conclusion of the bill being fake. If the applicant was deceived by the hotel management, it is not understood as to why he did not lodge a complaint with the police/ sales tax authorities based on the bill given to him. Years have passed, but no such action was initiated. True, he belongs to the lower cadre but it does not mean that he is not matured enough to obtain a proper bill from the guest house and that too, as a government servant, he has to be careful to conduct himself as per Conduct Rules giving no room for any complaint. Hence, we are not persuaded by the contentions of the applicant to claim that he was innocent. The I.O has held the charge as proved after affording reasonable opportunity to the applicant to defend himself. Learned counsel for the applicant relied upon the observations of the Hon'ble Supreme Court in

Roop Singh Negi v. Punjab National Bank & ors in Civil Appeal No. 7431
of 2008 dt. 19.12.2008, wherein it has been held as under:

“15. Yet again in M.V. Bijlani v. Union of India & Ors. (2006) 5 SCC 88, this Court held:



“...Although the charges in a departmental proceedings are not required to be proved like a criminal trial i.e. beyond all reasonable doubts, we cannot lose sight of the fact that the Enquiry Officer performs a quasi-judicial function, who upon analyzing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. He cannot enquire into the allegations with which the delinquent officer had not been charged with.”

This Tribunal is of the view that, in view of the facts and circumstances of the case and the observations made supra, the judgment cited by the learned counsel for the applicant is of no assistance to the applicant.

V. In view of the aforesaid circumstances, we do not find any merit in the OA and hence, the same is dismissed, with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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