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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.No.1399/87.

Date of decision: 2-2-1993.

P.N.Pillai

...Applicant.

Vs.

Union of India and Others

...Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S.MALIMATH, CHAIRMAN.
THE HON'BLE MR. I.K.RASGOTRA, MEMBER(A).

For the applicant.

...None.

For the respondents.

...Shri O.P.Kshatriay, counsel
for Shri N.S.Mehta, Counsel.

JUDGMENT(ORAL)

(By Hon'ble Mr. Justice V.S.Malimath, Chairman):

Neither the counsel nor the petitioner appeared when the case was called yesterday and today. As this is a very old matter, we shall dispose of the same after considering the records and the submissions of the learned counsel of the respondents.

2. A disciplinary enquiry was held against the petitioner in respect of two charges - one in regard to misuse of the L.T.C. facility and other in regard to unauthorised absence. Though petitioner filed his reply, he did not, in spite of several opportunities given to him, participate in the enquiry before the Enquiry Officer. The enquiry was, therefore, proceeded ex-parte and the evidence recorded. The disciplinary authority accepted the Enquiry Officer's report and after giving an opportunity to show cause to the petitioner, proceeded to pass the impugned order, Annexure-E dated 29.11.1985 holding the petitioner guilty of two charges and imposing the penalty of dismissal from service. The petitioner preferred an appeal which also came to be dismissed by the appellate authority on the 3rd of September, 1986 as per Annexure H, hence, this application.

3. The petitioner has alleged that one Shri Shivashankara Rao

Contd...2.

who had grudge against him was responsible for raking up the issues which had been closed several years back and to start the disciplinary proceedings. The petitioner complains that he should have been examined and offered for cross examination by the respondents. Having regard to the background of the case, it is not possible to accept this contention for the reason that the petitioner himself did not appear before the Enquiry Officer in spite of several opportunities given to him. Hence, the question of his cross examining any of the witnesses did not arise. The petitioner cannot, therefore, contend that he was deprived of such an opportunity to cross examine Shri Shivashankara Rao. It was for the petitioner to request the Enquiry Officer to summon Shri Shivashankara Rao as a witness. It is not the case of the petitioner that he made such a request and it was turned down without any justification. Hence, it is not possible to accept this contention.

4. It was contended that there is no independent application of the mind by the disciplinary authority. The disciplinary authority accepted the finding of the Enquiry Officer. He was not required to give elaborate reasons for accepting the Enquiry Officer's report.

5. There is no substance in the bald assertion of the petitioner that he was not furnished copy of some documents. This contention is not substantiated.

6. The only other contention is that the appellate authority has not passed a speaking order. Firstly, it is necessary to note that the appellate authority notified the petitioner and offered to hear him personally. The petitioner did not avail of that opportunity. On a perusal of the orders of the appellate authority, we find that he ^{has} applied his mind to the main contentions raised by the petitioner and gave reasons for rejecting the same. ✓ Hence, it is not possible to accept that the appellate authority

did not apply his mind.

7. For the reasons stated above, this petition fails and is dismissed. No costs.

Dalvep

(I.K.RASGOTRA)
MEMBER(A)

Malimath

(V.S.MALIMATH)
CHAIRMAN

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