

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.

Date of Decision: 15.12.82.

OA 1514/87

K. NET RAM ... APPLICANT.

vs.

UNION OF INDIA & ORS. ... RESPONDENTS.

COURT:

HON'BLE MR. JUSTICE RAM PAL SINGH, VICE CHAIRMAN.

HON'BLE MR. I.P. GUPTA, MEMBER (A).

For the Applicant ... SHRI G.D. GUPTA.

For the Respondents ... SHRI N.C. SIKRI with
SHRI V.K. RAO.

1. Whether Reporters of the local papers may be allowed to see the Judgement ?
2. To be referred to the Reporters or not ?

JUDGEMENT

(DELIVERED BY HON'BLE MR. JUSTICE RAM PAL SINGH, V.C.)

The applicant has filed this bulky OA running in several pages, under Section 19 of the Administrative Tribunals Act, 1985. The applicant was appointed as LDC on 17.4.61 and was promoted to the post of UDC in 1975. Subsequently, he was promoted to the post of Assistant on ad-hoc basis by order dated 7.10.82. He was working as Assistant in Indian Council of Agricultural Research (ICAR), which is a registered Society but fully controlled

by Government.

and owned by Ministry of Agriculture of the Union of India.

According to the applicant, he was elected as a member of the Executive Association of the Employees. According to him, he became popular in the staff members and was elected unopposed as President, Krishi Vihar Residence Welfare Association of the colony, where all the employees live. He, therefore, alleges that by holding the elective office he was victim of wrath of the officials. He was served with charge sheet memo dated 2.2.84 and the following charges were levelled against him:-

"While functioning as Assistant on ad-hoc basis at the ICAR headquarters during 1983, Shri K. Net Ram was asked to undergo medical fitness examination. He deliberately failed to comply with these orders. By his said act Shri K. Net Ram has been guilty of deliberate disobedience of the orders of the council and has, therefore, behaved in a manner unbecoming of a Council's employee and has thereby contravened Rule 3 of GCS (Conduct) Rules, 1964, as extended to ICAR employees."

Thereafter Enquiry Officer was appointed and during the course of the enquiry he raised several objections including the plea to engage an Advocate for his defence, as his defence assistant. He also contends that the enquiry was not initiated by the officer authorised. He also contends that the enquiry was concluded with deliberate haste and he was imposed with a penalty by the Disciplinary Authority for his compulsory retirement from service. He, therefore, prays for the relief that the order dated 12.2.86, imposing the penalty of compulsory retirement on the applicant

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and also the orders dated 6.10.86, 28.1.87 and 3.7.87, rejecting the appeal and review application, be also quashed.

2. On notice, the respondents appeared and filed their equally bulky return running in several pages. They have controverted the grounds raised by the applicant in his OA and inter-alia maintained that the enquiry was conducted in proper manner and according to rules; that the enquiry had to proceed ex-parte because the applicant did not attend the sittings of the enquiry in spite of several notices and information sent to him; and that the appellate and review orders were properly passed.

3. We have heard Shri G.D. Gupta, learned counsel for the applicant, and Shri N.C. Sikri with Shri V.K. Rao, learned counsel for the respondents. Both the counsel addressed us in very detail and they have also cited at the bar several case laws in their support. After hearing both the parties we have considered the rival contentions very carefully and have minutely gone through all the documents filed by both the parties.

4. The applicant after being aggrieved by the impugned order passed by the Disciplinary Authority, imposing upon him penalty of compulsory retirement, he filed an appeal before the Appellate Authority, which also runs in several pages. In that appeal, the applicant has raised several grounds with regard to the irregularities and illegalities committed during the conducton of the enquiry. These grounds are contained from paragraph 39 to paragraph 55. The Appellate Authority passed the appellate order, which is contained

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in Annexure P-21 dated 6.10.86. This order is reproduced below :-

34

*WHEREAS Shri K. Net Ram, Assistant, preferred an appeal on 17.4.86 against Order No.27(11)/83. Bstt.II dated 12th February, 1986, made by Additional Secretary (Admn) imposing on him the penalty of compulsory retirement.

WHEREAS the undersigned has considered the appeal and finds that there is neither any procedural lapse in dealing with the disciplinary case nor new points have been brought out in the appeal.

AND, WHEREAS the undersigned is of the opinion that there is no justification to interfere with the order imposing the penalty.

NOW, THEREFORE, the undersigned hereby confirms the aforesaid order made by the Disciplinary Authority.

Sd/- S.S. DAWRA
Secretary, ICAR.**

The applicant was then aggrieved by this order of the Appellate Authority and he preferred a statutory review petition before the President, ICAR. The Review Authority passed the order on 3.7.87 and just like the appellate order, the review authority also noted therein that there is neither any procedural lapse in dealing with the disciplinary case nor any new points have been brought out by him in the petition. The review order further says that the President, ICAR, is of the opinion that there is no justification to interfere with the order imposing the penalty. Both these orders, as is evident, does not contain any reason for rejecting the appeal and review filed by the applicant when he was aggrieved by the

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orders of the Disciplinary Authority. It is settled law that the filing of the appeal and review is not an empty formality. Great responsibility lies upon the Appellate Authority to go deeply in the proceedings of the Departmental Enquiry and also apply its mind to it. When the grounds of appeal are available before the Appellate Authority, it becomes its bounden duty to deal with the grounds raised before it. Annexure P-21 appears to be a telegraphic order passed by the Appellate Authority giving no reasons as to why the grounds of appeal which have been raised before it or been rejected. The surprising part is that no new points have been brought out in the appeal. We have mentioned earlier that the appeal filed by the applicant was a bulky one also and had raised the grounds in several paragraphs which also included the ground of not permitting the assistance of a defence assistant. It has also raised as a ground that the Enquiry Officer has wrongly proceeded ex-parte against him etc. etc. The Appellate Authority should have gone through several grounds of appeal raised by the applicant and should have given a reasoned order so that it may show that he has applied his mind while dealing with the appeal before him. In law, this appellate order Annexure P-21 dated 6.10.86 cannot, therefore, be sustained.

5. The order of review dated 3.7.87 also does not contain any reason for rejecting the review by the President, ICAR, when the statute provides for a Statutory Review Petition then it was the duty of the President to apply its mind to the grounds raised before it and must have seen as to what illegalities or irregularities

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76

have occurred in the order of the Disciplinary Authority or in the order of the Appellate Authority. It can also go into the proceedings of the enquiry but unfortunately this review order also suffers from legal infirmities as it is neither a reasoned order nor a speaking order. We, therefore, are of the view that this review order cannot be maintained in law.

6.(i) We, therefore, partly allow this OA and quash the appellate order Annexure P-21 dated 6.10.86 and also the review order dated 3.7.87. The Appellate Authority shall pass a reasoned order within a period of three months from the date of receipt of a copy of this judgement after giving an opportunity of being heard to the applicant.

(ii) If the applicant is still aggrieved, he can file a statutory review to the President, who shall also pass a reasoned order according to law, as enumerated by us hereinabove.

(iii) If the applicant is still aggrieved, he can file a fresh OA and all the grounds taken by him in this OA shall remain open to him.

This OA is, therefore, disposed of finally in the above terms with no order as to costs.

I.P. GUPTA
(I.P. GUPTA) 15/12/82
MEMBER (A)

RAM PAL SINGH
(RAM PAL SINGH)
VICE CHAIRMAN