

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH.
NEW DELHI.

Registration O.A.1549 of 1987

Narender Singh Applicant.

Versus

Union of India
and others Respondents.

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Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. S.R. Adige, MEMBER (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was working as Tradesman-A (Instrument Mechanic) in the Institute of Nuclear Medicine and Allied Sciences till February, 1986. On 25.9.1984, the applicant was working as Tradesman-A he was served with a chargesheet for imposition of Major penalty on two charges. The one charge was that on 4.7.1984 the applicant had during lunch hour, washed his 'muddy hands' on the sink located in the OPD (out patient department). The allegation is that, his doing so, created a serious threat of contamination and was heald hazard. The second charge was that the applicant entered the typing room of the Technical Section and "disturbed the officials working in the room". The allegation was that this room was out of bounds. This happened on 11/12.7.1984. From the date, the said occurance took place, ~~nonserious~~ ~~action was taken by~~ the respondents and rather it was ignored but both of them were included in one charge-sheet and the ~~departmental~~ enquiry proceeded. The applicant approached to the High Court, against the disciplinary proceedings and certain directions were given by the High Court as to how the proceedings to be conducted, and concluded. The enquiry officer submitted its

report and on the report of the enquiry officer, it appears that the applicant has not been completely held guilty but acting on the report of the enquiry officer, the disciplinary passed an order of reduction of his rank. The applicant filed an appeal against the same and after its rejection, he has approached the Tribunal.

2. Sri Gupta learned counsel for the applicant has made ^{reference of} two Supreme Court cases in this behalf on the point of misconduct. He has referred the case of Union of India Vs. J Ahmad, 1979, 3 S.C.R. page 504 in this case it has been observed that;

"Conduct which is blameworthy on the part of a Government servant in the context of the conduct Rules would be misconduct, that is if a government servant conducts himself in a way which is not consist with due and faithful discharge of his duties, it is misconduct. Similarly, disregard of an essential condition of the contract of service may constitute misconduct. So too an error or omission resulting in serious or atrocious consequences may amount to misconduct But competence for the post, capability to hold and discharge the functions attached to it with requisite efficiency are different from some act or omission on the part of its holder so as to be called misconduct. A single act or omission or error of judgment while holding a post of responsibility unaccompanied by serious or atrocious conduct would not constitute misconduct."

Learned counsel for the applicant further contended that practically the same situation arises in this case and ^{no} statute reveals it that so act of

commission and omission amounted to misconduct.

A reference has also been made to the case of

State of Punjab and others Vs. Ram Singh Ex-Constable,
(1992) 4 SCC page 54, wherein it has been held that,

" The word 'misconduct' though not capable of precise definition on reflection receives its @@ connotation from the context, the delinquency in its performance and its effect on the discipline and the nature of the duty. It may involve moral turpitude , it must be improper or wrong behaviour, unlawful behaviour, wilful in character, forbidden act, a transgression of established and @@@ definite rule of action or code of conduct but not mere error of judgment, carelessness or negligence in performance of the duty, the act complained of bears forbidden qualify or character Its ambit has to be construed with reference to the subject matter and the context wherein the term occurs, regard being had to the scope of the statute and the public purpose its seeks to save."

In this case, the act of misconduct committed by the applicant do not cross the limit of carelessness and negligence in performance of the duties, and accordingly, the act so committed cannot be said to be the act of mis-conduct and the proceedings taken against the applicant was above due and uncalled for, Moreso, in such cases, action should have been taken promptly but the respondents have not taken any action against the applicant just after committing misconduct by him.

3. Accordingly, this application is allowed and the orders dated 10.8.1984 and 7.2.1986 are

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whose actions are also not appreciable
quashed with a warning to the applicant, that he
should be cautious in future and should not repeat
such things. As the applicant is succeeded in this
case, he is entitled to all the consequential
benefits as he was never punished. The application
is disposed of with the above terms. No order as
to the costs. *copy of the order given to be placed as his personal file*

M. J. G.
Member(A)

L. S.
Vice-Chairman

Dated: 18.3.1993

(n.u.)