

CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH : NEW DELHI

O.A. NO. 1590/1987

DECIDED ON : 30.7.1991

Nahar Singh

... APPLICANT

VS.

Union of India & Ors.

... RESPONDENTS

Shri K. L. Bhatia, Counsel for the Applicant.

CORAM : HON'BLE MR. JUSTICE U. C. SRIVASTAVA, V.C. (J)

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

.....

J U D G M E N T

HON'BLE MR. JUSTICE U. C. SRIVASTAVA, V.C.

The applicant who was employed in the Delhi Milk Scheme under the Ministry of Agriculture as a Mate was charge sheeted and a disciplinary inquiry against him was initiated under rule 14 of the CCS (CCA) Rules, 1965 levelling the charges that the applicant while functioning as a Mate and deployed at R. No. 56 on 29.1.1981 attempting to pilfer 4x $\frac{1}{2}$ TM filled bottles hidden in between his coat and pant for his personal gain. The inquiry officer held the inquiry ex-parte on the plea that a notice for appearing at the hearing issued to the applicant was not accepted by the Time Office of the Delhi Milk Scheme and later on it was sent to his home address which was received back unserved. No further notice was sent to him and thereafter the findings were recorded against him and he was charged of pilferage and the punishment awarded to him was compulsory retirement vide order dated 22.6.1982. The applicant filed an appeal against the same which was rejected as barred by time. Thereafter the applicant submitted a review petition under Rule 29 of the CCS (CCA) Rules, 1965 on 13.1.1985. The reviewing authority in its

order dated 6.1.1986 observed that the applicant was not given reasonable opportunity to defend himself and the inquiry report submitted by the inquiry officer is not a self-contained one inasmuch as the document referred to in the inquiry report were not made available to the applicant along with the inquiry report and that the inquiry officer held the inquiry without taking any precautions to see that the charged official gets due notice of the dates of the inquiry proceedings. The procedural lapses as indicated above have resulted in vitiating the proceedings held against the applicant. The President has, therefore, come to the conclusion that the ends of justice will be met if the case is remitted back to the disciplinary authority for a de novo inquiry. The case was thereafter remitted to the disciplinary authority to hold a de novo inquiry against the applicant under Rule 14 of the CCS (CCA) Rules.

2. Subsequently a fresh charge sheet was given to the applicant. There is no mention of the earlier disciplinary proceedings on the basis of which the penalty of compulsory retirement was imposed.


3. Learned counsel for the applicant contended that under Rule 29 of CCS (CCA) Rules no de novo inquiry can be ordered and in this connection reference was made to the following cases :


1. B. L. Kohli Vs. Union of India (1974 (2) SLR 679)
2. T. Anantharaman Vs. Union of India (1979(1) SLR 197)
3. Collector of Customs vs. Samoathu Chetty (AIR 1962 SC 334)
4. Moti Ram Vs. Union of India (AIR (2) CAT 88).

The contention is that under Rule 29 no de novo inquiry can be ordered. The only order which could have been passed was to conduct further inquiry as may be considered appropriate under the circumstances of the case.

4. We agree with the contention of the learned counsel for the applicant and therefore the punishment order deserves to be quashed. However, it is open to the reviewing authority to remit the case to the authority which made the order or to any other authority to make such further inquiry as it may consider proper in the circumstances of the case ensuring that the applicant is given a reasonable opportunity to defend himself and that proper procedures are adopted.

5. The application is accordingly disposed of leaving the parties to bear their own costs.

Anand

(I. P. Gupta)
Member (A)


(U. C. Srivastava)
Vice Chairman (J)