

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH NEW DELHI

Original Application No. 1612 of 1987

versus

Union of India & Others Respondents

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. G.S.R. Adige ,Member (A)

(By Hon'ble Mr. Justice G.C. Srivastava, V.C.)

The applicant was the Chairman of All India Defence Accounts Association, Meerut at the relevant point of time. On 27.9.84, an employee of the department who was on leave because of illness, resumed his duties and the version of the applicant is that he was harassed by particular officer because he resumed duty after a long time, with the result that there was serious break-down and he fainted due to heart attack. Arrangements were made to shift him to hospital and he was taken to hospital within 55 minutes and because of the negligence of the respondents who did not make any arrangement for the person and who in fact was responsible for this what has happened and as a matter of fact he expired in the office as he was declared dead in the hospital and on the same day one Mr. Bhalla was also fainted in the office but he was removed to hospital and all care for him was taken and thus discrimination was done. A charge-sheet was served upon the applicant charging him of various mis-conduct. The charge-sheet itself indicates that the applicant was charged for whipping up the emotions of the staff members and organising a Gherao and instigating the staff to turn violent raising of slogans and exploiting the personal grievances and disgruntling the staff and refusal to decline the Gherao and even manhandling the police people and being similar such acts. The applicant was charged for infringing the provisions of Sub Rule (III) of Rule 3(i) and Rule 7(i) and (ii) of CCS (Conduct) Rules, 1964, which reads as under :-

Rule 3(i)(iii) To do nothing which is unbecoming of a
Government Servant"

Rule 7(i) and (II)" No government servant shall engage himself or participate in any demonstration which is prejudicial to the interest of the sovereignty ^{and} integrity of India and security of the states friendly relation with foreign states, public order, decency or morality, or which involves contempt of court, defamation or incitement to an offence"

7(ii) "Resort to or in any way abet any form of Strike or coercion or physical duress in connection with any matter pertaining to his service of any other government servant."

The applicant submitted his reply refuting all his allegations and stating that the fact stated in the charge-sheet was correct, as a matter of fact, fact is otherwise that he was an colleague and just when they found that colleague has fainted and has suffered with heart attack and he informed his wife and the family members and took him to hospital and to the mis-fortune day found him to be dead and charges levied against him have only been concocted for the purposes of getting rate of his trade union activities because it was found by the respondents that they have been able to get a particular occasion for this purpose. No enquiry was held and a minor penalty of withholding of the applicant's increment for three years was given by the disciplinary authority, which is under challenge.

2. The respondents have countered the allegations made by the applicant and have come out with a different story all together and as a matter of fact it is he who did all the needful and the applicant was indulging in such anti-social, desirable, indiscipline activities. Sri Gupta learned counsel for the applicant vehemently contended that the charges against the applicant only invited major penalty and not minor penalty and because the charges were frivolous and made up the matter and that's why no enquiry was held and the applicant was penalised in this matter and because he was penalised, he was also transferred out of Delhi and later on this transfer was modified and he was transferred to Meerut and now he is ~~in~~ again in another office in Delhi. He further contended that ~~xxxxxx~~ it was the disputed question of fact ~~xxxxxx~~ and the entire charges of the finding so recorded against him. Even the counter-affidavit filed by the respondents does not disclose that of course there was ^{any} eye witness to it and there was absolutely no material before the respondents to hold him guilty and award any penalty. It is not necessary for us to enter into this question as the charge-sheet and it is before us. It was a case of major penalty

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and there being disputed question of fact and enquiry should ~~xxxxxxxxxx~~ ^{been held} have been held, it is true that under ~~the~~ rule 16 enquiry should have / unless it was dispensed with by the president under rule 19 of the CCS (CCA) Rules. Undoubtedly, under the rules, it is the discretion of the disciplinary authority to ~~to~~ hold or not to hold the enquiry. Even if without looking into the instruction issued by the Govt. of India in this behalf, it is clear that the nature of allegations invited, if the enquiry into the facts so alleged, but the same was not done and the applicant was thus, completely deprived of hearing himself or proving that even if the such things have happened, it is he who was not involved it or somebody else on that date was involved it. In these circumstances, the application deserves to be allowed and the orders dated 4.10.1985 and withhold of next increment of three years and the transfer order dated 4.10.1985 are quashed. However, it is made clear that it will open for the respondents to hold an enquiry in this matter in accordance with law or to take any other action in the matter. No order as to costs.

R K Agrawal
Member (A)

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Vice-Chairman

Dated: 18.3.1993

(RKA)