

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

O.A. No. 1453/1990  
T.A. No.

199

DATE OF DECISION 16th August, 1991.

<u>Shri T.C. Bakshi</u>	Petitioner
<u>Shri Rajan Sharma</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India &amp; Others</u>	Respondent
<u>Shri P.P. Khurana</u>	Advocate for the Respondent(s)

### CORAM

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *No*

### JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,  
Vice Chairman(J))

The grievance of the applicant, who has worked as Store Supervisor in the Delhi Milk Scheme(DMS), filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for quashing the impugned charge-sheet dated 23.9.1989 issued by the respondents and for direction to the respondents to pay him gratuity, leave encashment and commutation of pension consequent upon his retirement on attaining the age of superannuation with effect from 30.9.1989.

2. The applicant was appointed as Junior Store-Keeper in May, 1962. He was promoted as Store Supervisor in 1978. On

23.9.1989, just one week before his date of retirement on attaining the age of superannuation, the respondents served on him a memorandum proposing to initiate disciplinary proceedings against him under Rule 14 of the CCS(CCA) Rules, 1965 in respect of the following charge:-

"That the said Shri T.C. Bakshi while functioning as Store Supervisor had failed to comply with the provision of the A.T.No.7-6/81-(SPH)/3(Ret) dated 10/15, May, 1982 involving the substantial loss to the tune of Rs.1 Lakh 50 thousand towards the cost of transformer handed over to the representative of M/s Hangers India Pvt. Ltd., New Delhi on 25.10.1982. He is thus charged of negligence in the performance of the duty as a Store Supervisor resulting substantial loss of Rs.1 lakh 50 thousand which act is unbecoming of a Govt. Servant and is in contravention of Rule 3 of CCS(Conduct) Rules, 1964".

3. The applicant denied the charges. Thereafter, the respondents appointed an Enquiry Officer on 30.3.1990. Thereafter, they changed the Enquiry Officer by order dated 18.4.1990 and again by another order dated 3.5.1990. On 14.5.1990, they changed the Presenting Officer. The enquiry proceedings have not made any headway. The applicant has contended that the action of the respondents is mala fide and discriminatory as the Store Officer was allowed to retire and that this is a case of no evidence. The respondents have paid to him provisional pension only upto 31.3.1990 and thereafter provisional pension and all other retirement benefits have been withheld by them.

4. The respondents have stated in their counter-affidavit that the applicant did not take due care to

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safeguard the government property, that their action cannot be said to be mala fide and discriminatory, that there is prima facie case in support of the charge brought against him and that he be directed to cooperate with the enquiry proceedings so that the case may be decided as early as possible. They have also stated that the applicant is being paid provisional pension.

5. We have carefully considered the matter and the rival contentions advanced before us by the learned counsel of both parties. The learned counsel for the applicant stated that there was inordinate delay in initiating the proceedings against the applicant, as the alleged misconduct pertained to the year 1982 and that the issue of the charge-sheet on the eve of his retirement was with mala fide intentions. In our view, the mere fact that the charge-sheet was served on the applicant on the eve of his retirement does not necessarily mean that there was mala fides on the part of the respondents. In a case of this kind, we are of the view that the law should be allowed to have its own course and that it will not be appropriate to interfere at this stage with the action initiated by the respondents. The CCS(CCA) Rules, 1965 contain adequate safeguards to the delinquent government servant to defend himself in the enquiry. After the final order is passed, he has the right to prefer appeal, revision etc., against the order passed by the disciplinary authority, in case that authority chooses to

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impose any punishment on him on the basis of the report of the Enquiry Officer. Instead of clearing himself from the enquiry, the applicant has rushed to the Tribunal. He has not made out any extraordinary circumstances warranting our interference at this stage.

6. We are, however, of the opinion that the respondents should have completed the enquiry within a reasonable time. They have changed the Enquiry Officer twice and the Presenting Officer once. This is not the way to conduct the proceedings. There is nothing on record to indicate that the applicant is not cooperating with them in the conduct of the enquiry. We have been told that the respondents have stopped giving of provisional pension to the applicant from 31.3.1990 which is unwarranted, patently illegal and violative of the provisions of Rule 9 read with Rule 69 of the CCS(Pension) Rules, 1972.

7. In the conspectus of the facts and circumstances of the case, the application is disposed of with the following orders and directions:-

(i) We see no reason or justification to set aside and quash the impugned order dated 23.9.1989 whereby the respondents have initiated disciplinary proceedings against the applicant. At the same time, we are of the opinion that the enquiry should be completed and the final order passed as expeditiously as possible but in no event later than

*Or*

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31.12.1991. The applicant should also cooperate in the conduct of the enquiry.

(2) We disapprove the action of the respondents in not paying the applicant provisional pension for which he is entitled in accordance with the rules. The respondents are directed to release to him provisional pension from 31.3.1990 or such other date it has been withheld by them, together with 18% interest within a period of one month from the date of receipt of this orders. They should also pay provisional pension every month / punctually.

(3) There will be no order as to costs.

*B.N. Dhoundiyal*  
(B.N. DHOUNDIYAL)  
MEMBER (A)

*P.K. Kartha*  
16/8/91  
(P.K. KARTHA)  
VICE CHAIRMAN (J)