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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2500/90

New Delhi, this 9th day of July, 1996

Hon'ble Shri A.V. Haridasan, Vice-Chairman(J)
Hon'ble Shri R.K. Ahooja, Member(A)

Charan Singh
s/o Shri Nanak Chand
Village Duhari, Dt. Ghaziabad(UP) .. Applicant
(By Shri V.P. Sharma, Advocate)

vs.

Union of India, through

1. Secretary
M/Defence
South Block, New Delhi
2. Director General, Ordnance Factories
10, Auckland Road, Calcutta
3. The General Manager
Ordnance Factory
Muradnagar, Dt. Ghaziabad .. Respondents
(By Shri V.S.R.Krishna, Advocate)

ORDER(oral)

Hon'ble Shri A.V. Haridasan

This application filed under section 19 of the AT Act, 1985 is directed against the order dated 21.8.94 (Annexure A-1) of the second respondent imposing on the applicant penalty of dismissal from service and orders dated 31.12.87 and 12.2.93 by which the appeal and revision respectively were dismissed.

2. The applicant was a civilian employee drawing his pay from Defence estimate and employed as Compounder under the second respondent. He joined service on 14.3.75. In February, 1982, the applicant was called upon to produce the certificate showing that he possessed the requisite qualification for appointment to the post. The applicant stated that the documents had been produced by him at the time when he was appointed,
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that certified copies thereof were kept in his service record and that the original certificates had been lost in the floods which occurred in the year 1979. Dissatisfied with the above explanation submitted by the applicant, a court of enquiry was held and a report was placed by the court of enquiry holding that the applicant had produced a fake certificate. On that basis, proceedings under rule 14 of CCS(CCA) Rules were initiated against the applicant. The applicant participated in the enquiry. The enquiry officer reported that the charge was established. The disciplinary authority accepted the finding, found the applicant guilty and passed the order imposing on him the penalty of dismissal from service. The applicant has assailed the impugned order on various grounds; mainly on the grounds that the enquiry in accordance with CCS(CCA) Rules is invalid in so far as the provisions of the said rules are inapplicable to him, his being employed in defence services, getting pay from defence estimate, that the enquiry has not been held in accordance with the rules as the enquiry officer has permitted the Presenting Officer to adduce new evidence which was not made a mention of in the Annexures to the Memorandum of Charge and that a copy of the enquiry report was not made available to the applicant, thereby denying him reasonable opportunity to defend himself.

3. The respondents resist the application and have filed a detailed statement.


4. We have with meticulous care gone through the entire pleadings and material placed on record. We have heard the arguments of learned counsel for the applicant Shri V.P. Sharma and learned counsel for the respondents Shri V.S.R. Krishna.

5. The arguments advanced by the applicant that the enquiry and the result thereof have no legal validity since the same was as per the provisions of CCS(CCA) Rules has only to be mentioned and rejected because in Director General Ordnance Factories Vs. P.N. Malhotra 1995(30)ATC-600, it has been held that as CCS(CCA) Rules are essentially a compendium of principles of natural justice, if an enquiry had been held in accordance with the said rules, no prejudice can be said to have ^{been} caused ~~to~~ the government servant concerned even if the rules are not applicable to him. Here in this case, though the applicant is a civilian employee drawing his pay from defence estimate, enquiry in accordance with principles of natural justice had to be held before imposing on him any of the major penalties and the same has been held in accordance with the rules which satisfy the principles of natural justice.

6. The argument that a copy of the court of enquiry report was not made available to the applicant and therefore he has been denied reasonable opportunity to defend himself also has to be rejected because in the appeal filed by him at para 19 the applicant himself has stated that the Presenting Officer made available


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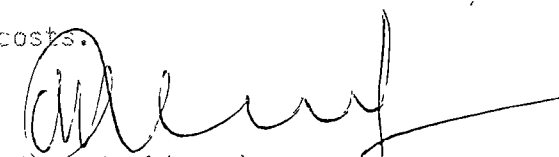
for his perusal the report of the court of enquiry. The argument that the enquiry is vitiated as the enquiry officer allowed additional evidence to be adduced also has no force because that is provided for in sub-rule 15 of Rule 14 of CCS(CCA) Rules. In this case, the additional evidence, namely letter dated 26.4.83 received from the Registrar, UP Pharmacy Council, Lucknow and the letter dated 11.5.83 from the Principal, Public Health Training Institute, Jaipur were allowed to be brought in evidence by the enquiry officer after notice to the applicant after the inquiry officer having been satisfied that these documents are relevant to the issue. According to the letter dated 26.4.83, the registration certificate No.6253 dated 27.5.70 was not issued in the name of the applicant. Similarly, according to the letter dated 11.5.83, the Diploma course in Pharmacy was started by the Medical and Health Department, Govt. of Rajasthan only from 1976 onwards. These two documents establish beyond any doubt that the certificates produced by the applicant for securing employment were bogus. The case of the disciplinary authority is that the applicant secured employment by cheating the Government by producing bogus certificates. This charge has been established by the evidence. The additional documents clearly establish this charge. We are unable to accept the arguments of the learned counsel of the applicant that the finding is not supported by evidence..



7. On an anxious consideration of the facts and circumstances emerging out of the pleadings and other material on record, we do not find any infirmity with the impugned order (Annexure A-1). The contentions raised by the applicant in his appeal memorandum were duly considered by the appellate authority and also by the revisional authority and, therefore, their orders also can not be faulted.

8. In the light of what is stated above, we do not find any merit in this case and we dismiss the same leaving the parties to bear their own costs.


(R.K. Ahooja)
Member(A)


(A.V. Haridasan)
Vice-Chairman(J)

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