

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

D.A.No.2546/90

DATE OF DECISION 5.6.91

SHRI HAR GOVIND

-- APPLICANT

VS

UNION OF INDIA

-- RESPONDENT

CORAM

SHRI D.K. CHAKRAVORTY, HON'BLE MEMBER (A)

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANT

APPLICANT IN PERSON

FOR THE RESPONDENT

SHRI K.C.MITFAL.

1. Whether Reporters of local papers may be allowed to see the Judgement?

2. To be referred to the Reporter or not? Not

JUDGEMENT

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

The applicant, Postal Assistant, D.H.Q. Post Office, New Delhi, filed this application under Section 19 of the Administrative Tribunals Act, 1985 aggrieved by the order dated 19-1-1987 passed by Sr. Supdt. of Post Office, South East Division, New Delhi, order dated 6-11-1987 passed by Director Postal Services, order dated 17-8-1982 passed by Member (Personnel) Postal Services Board and order dated 24-4-1990 passed by Desk Officer, (Vig.III) Department of Posts, order in the name of the President (Annexure A-1 to

Annexure A-4). There was a disciplinary proceedings against the applicant under Rule 16 of the C.C.S. (CCA) Rules, 1965 and the penalty of withholding one increment for a period of one year, without affecting future increments, was imposed. When the applicant appealed against the above punishment order to the Director Postal Services, he ordered withholding of next increment for two years without cumulative effect. The applicant has prayed for the following main reliefs:-

- i) All orders mentioned in paras 1.1 to 1.4 (Annexures A-1 to A-4) may kindly be struck down being arbitrary and violative of the rules and the penalties be set aside.
- ii) All the consequential benefits be granted to the applicant.

2. The facts of the case are that the applicant on 14-9-1985 addressed a complaint to the Minister of Communication, Government of India, regarding the corrupt practices of SPM, DHQ P.O. An enquiry was conducted and the allegations made by the applicant were found to be totally false and baseless by the vigilence department. The applicant, therefore, was served with a charge sheet under Rule 16 of the C.C.S. (CCA) Rules, 1965 dated 28-7-1986 (Annexure A-10). The imputation of misconduct is as follows:-

"Sh. Har Govind while working as P/A DHQ PO made a complaint dated 29-1-1985 to P.M.G. Delhi Circle regarding misuse of Power for wrongful personal gains by Sh. K.K.Chhadra (name written as K.K.Dhir) the then SPM (HSG-I) DHQ PO and Sh. R.K.Sharma ASPM.

Investigations were made by the Circle Office and the complaint made by Sh. Har Govind P/A was found totally false and baseless.

Sh. Har Govind P/A is therefore alleged to have acted in a manner unbecoming of a Govt. Servant. He is therefore alleged to have violated the provisions of Rule 3(1)(iii) of C.C.S. (CCA) Rules, 1964.

3. The applicant did not submit any reply or explanation but made an application requesting for access to some relevant documents. According to the applicant he was not allowed those documents, nor any reasons were assigned. Finally, the disciplinary authority imposed minor penalty upon the applicant of withholding of next increment for a period of one year without affecting future increments. Thereafter the applicant preferred an appeal, and the appellate authority enhanced the penalty to withholding of next increment for a period of two years without cumulative effect. This order has been upheld even upto the higher authorities. The applicant also assailed the said order, that the order of Respondent No.2 bears no discussion of any evidence to reach the conclusion which

he reached relating to enhancing of the punishment.

4. The respondents contested the application and filed the reply stating that the application is barred by limitation under Sec.21 of the Administrative Tribunals Act, 1985. It is stated that the applicant, while working as Postal Assistant at DHQ Post Office, New Delhi made a serious complaint on 29-1-1985 against his superiors i.e. Shri K.K. Dhir, the then Sub Postmaster D.H.Q. Post Office, New Delhi and Shri R.K. Sharma the then Assistant Sub Postmaster of the same Post Office. Investigations were made thoroughly into the matter and in the result the complaint made by the applicant was found to be totally false and baseless. The applicant was proceeded under Rule 16 for a minor penalty and was punished. The applicant made an appeal against the punishment order, but the same has been rejected. The appellate authority enhanced the punishment as it observed that the punishment awarded to the applicant was not commensurate with the gravity of offence.

5. It is further stated in reply that the applicant did not file any reply to the article of charges in spite of giving notices. The inquiry was conducted and reasonable opportunity was provided to the applicant to defend his case. The right of the applicant of access to official records is not unlimited and it is open to the

disciplinary authority to deny such access if in its opinion it is not desirable in the public interest to allow access to such records. It is stated that since the preliminary enquiry report was a confidential document in this case giving of access to the applicant to such document was not in the public interest.

6. We have heard the applicant in person and the learned counsel for the respondents. The applicant did not submit any reply or representation to the article of charges, quoted above, against him. The Director of Vigilance wanted from the applicant whether he had made any complaint against Shri Dhir and Shri Sharma to which he replied in affirmative. Thus when the applicant has not filed any statement of defence then it cannot be said that the case of the applicant was not considered on the basis of available record.

7. The grievance of the applicant is that he has requested in his application dated 5-8-1986 for the supply of the documents before submitting any reply:-

- (1) My complaints dated 29-1-1985 to P.M.G. and all its reminders.
- (2) Investigation report or reports in respect of the above complaint.
- (3) All records and documents mentioned in the above said complaints.

However, the respondent replied as under to the applicant in terms of his letter dated 5th August, 1986:-

"With reference to your application dated 5th August, 1986 it is intimated that you should have a copy of your own complaint with you, however a copy of the same can be perused at this office.

2. Item No.2 cannot be supplied.

3. You should be specific about the documents, mentioned in No.3".

9. We find that the applicant was called in the inquiry to give his statement by the vigilance. The enquiry by vigilance officer did consider his statement regarding allegations made in the complaint against superior officer. Thus the non supply of document does not effect in any way the findings of the D.E. It was an inquiry for a minor punishment and applicant was given due opportunity for filing his defence. The punishment was enhanced by memo dated 6-11-1987 passed by D.P.S. after giving notice to the applicant (Annexure A-2). There is nothing which could show that there was any illegality or irregularity committed in the procedure. The charges against the applicant were considered on the basis of record available and the applicant cannot have any grudge against that. Further the Enquiry Officer did not rely on the preliminary report of vigilance enquiry in coming to the conclusion reached in the Enquiry Report.

J.

10. It is further argued that his appeal was wrongly decided by respondent No.3. Then the applicant made an appeal to the President. We, have considered that aspect too. We do not find that there is breach of any rule or the principles of natural justice in the inquiry nor there is any arbitrary action on the part of the respondent in denying the reasonable opportunity to the applicant.

11. The applicant himself did not avail of the opportunity to file a reply to the article of charges. We find that there is no force in the application. We, therefore, dismiss this application at the admission stage itself being devoid of merits leaving the parties to bear their own costs.

Sharma
(J.P. SHARMA) S. 6. 5/

Chakravorty
(D.K. CHAKRAVORTY)
5-6-81
MEMBER (A)