

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
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(5)

O.A. NO.1347/1991

DATE OF DECISION 1.11.91

Shri Gian Sagar Wadhwa

...Applicant

vs.

Union of India & Others

...Respondents

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Shri D.K. Chakravorty, Hon'ble Member (A)

Shri J.P. Sharma, Hon'ble Member (J)

For the applicant

...Shri K.C. Sharma

For the respondents

...Shri K.C. Mittal

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

J U D G E M E N T

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

The applicant assailed the order dated 16.3.1991 (Annexure-I) ordering an enquiry under Rule 14 of the CCS (CCA) Rules, 1965. The applicant has been in employment of the respondents as a Technician in the Blood Bank in Safdarjung Hospital and as early as in September, 1989 he was informed that an action is proposed to be taken against him under Rule 16 of the CCS (CCA) Rules, 1965. He was served with a memorandum of charges

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against which he has submitted a reply in July, 1990.

The grievance of the applicant is that he has been again issued a revised chargesheet by the memo dated 16.3.1991.

2. The applicant in this application claimed the relief to quash the impugned order dated 16.3.1991 (Annexure-I) and also to quash the proceedings initiated against him vide memo dated 11.9.1989 under Rule 16 of the CCS (CCA) Rules, 1965. The applicant also claimed for return of certain documents mentioned in the memo dated 11.9.1989.

3. The facts of the case are that in 1985, CBI raided the house of the applicant and lodged FIR against him under Corruption Act. The case is pending before Additional District Judge, Delhi. The applicant was suspended from service w.e.f. 20.5.1986. The applicant was served with a memo dated 11.9.1989 enclosing the statement of imputation of misconduct in support of the article of charges under Rule 16 of CCS (CCA) Rules, 1965. The applicant served a notice under Section 80 CPC to the Supdt. Safdarjung Hospital for return of the documents taken away from his residence and to drop the charges. However, the Superintendent, Safdarjung Hospital issued the

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impugned memorandum dated 16.3.1991 appointing Shri Ramakant, Additional Medical Superintendent as the enquiry authority and Shri A.P.Datta, C.M.O. as presenting officer to hold an enquiry under Rule 14 of the CCS (CCA) Rules, 1965. The applicant assailed this order on the ground that no article of charges have been drawn up or communicated to him. Neither any list of documents nor list of witnesses have been drawn up or communicated to the applicant. The applicant has also not been furnished any list of documents or witnesses to be examined against him. The proceedings were earlier instituted against him under Rule 16 of the CCS (CCA) Rules, 1965 and these proceedings cannot be converted to Rule 14 without following the detailed procedure laid down in the said Rule 14 for initiating action for imposing a major penalty.

4. The respondents contested the application and stated that the statement of imputation of misconduct, list of documents and list of witnesses to substantiate the charges have been sent to the applicant with the office letter dated 15.7.1991 because a regular enquiry is being held under Rule 16 of the CCS (CCA) Rules, 1965.

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The procedure laid down under Rule 16 has been followed correctly. The respondents further stated that in accordance with the procedure laid down under Rule 16 of the CCS (CCA) Rules, 1965, a statement of imputation of misconduct in support of article of charges against the applicant was given in Annexure-I vide memo dated 11.9.1989. The proceedings, according to the respondents, have not been converted to Rule 14 of the CCS (CCA) Rules, 1965. The enquiry is being conducted under Rule 16 of the CCS (CCA) Rules, 1965 correctly. It is stated that when the memo dated 11.9.1989 was issued to the applicant, the requisite statement was not to be sent under the rule. The requisite statement has now been sent under the office memo dated 15.7.1991 when an enquiry was ordered by the disciplinary authority. In fact, in the imputation of misconduct sent to the applicant by the covering letter dated 15.7.1991, the price of the plot shown earlier inadvertently ^{as} Rs.1500 has now been shown as Rs.10,000 and similarly the value of the Janata Flat in Rohini which was earlier shown as Rs.7,000 has now been shown as Rs.25,000. Thus there is only correction regarding the amount which were earlier wrongly shown. It is said that the applicant is not entitled to any relief.

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5. The applicant filed the rejoinder to the reply. In the rejoinder, a reference has been made to memo dated 15.7.1991 where the words used are in continuation of the memo dated 11.9.1989, but according to the applicant, the contents of the charges of the office letter dated 15.7.1991 materially differ from the contents of the memo dated 11.9.1989. This, according to the applicant, could have only ^{been} done by withdrawing earlier memo dated 11.9.1989.

6. We have heard the learned counsel of both the parties at length and have gone through the record of the case. A perusal of the statement of imputation (Annexure-II) of the memo dt.15.7.1991 filed by the applicant as Annexure-IV to the rejoinder goes to show that the applicant purchased one plot No.107 and one shop No.1, 2, 19 and 20 in village Hassal and a Janata Flat No.3849 for Rs.25,000 without obtaining any permission from the competent authority. As such, the applicant contravened Rule 31 (iii) of the CCS(Conduct)Rules, 1964. The statement of imputation of misconduct (Annexure-II) of the memo dt.11.9.1989 already covers all these three transactions of purchase, but the different amount of consideration has been shown against each purchase and that all these purchases were made by the applicant without

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obtaining any permission from the competent authority. Thus materially the imputation of misconduct in support of the article of charges raised against the applicant is almost the same except that the amount of consideration has been changed. This is not a new chargesheet and may very well be said to be an amended chargesheet because the respondents have clearly stated in their reply that they are not proceeding against the applicant for major penalty chargesheet under Rule 14, but still they are proceeding on the same under Rule 16 (3) and the procedure which is being observed is as laid down in Rule 14 of the CCS (CCA) Rules, 1965. The applicant has not challenged that the competent authority has not issued the chargesheets. The grievance of the applicant only is that no distinct articles of charges have been drawn up or communicated to the applicant and that no list of documents and list of witnesses have been drawn up or communicated to the applicant. But the applicant has himself filed all these as Annexure-IV to the rejoinder and this has been received by the applicant alongwith a memo dt. 15.7.1991 (Annexure-II to the rejoinder). The second grievance of the applicant is that the proceedings which were earlier instituted under Rule 16 of the CCS (CCA) Rules, 1965 have been converted to those proceedings

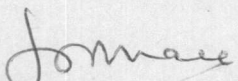
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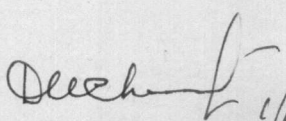
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under Rule 14 without following the detailed procedure laid down in the said Rule 14 for initiating action for imposing the major penalty. But this is denied by the respondents in their reply. The memo dated 15.7.1991 filed by the applicant himself as Annexure-II to the rejoinder showed that this memo is in continuation to the memo already issued under Rule 16 under CCS (CCA) Rules, 1965. There is no fresh drawing up of proceedings under Rule 14 for major punishment and this contention of the learned counsel for the applicant, therefore, is not substantiated by the documents filed by the applicant himself as Annexure to the rejoinder. No other ground has been taken in the application itself nor pressed during the course of the arguments by the learned counsel for the applicant.

7. We, therefore, find that the issuing of a fresh memo dt. 12.7.1991 is not illegal nor there is any irregularity in the procedure followed for enquiry against the delinquent official for minor punishment as envisaged under Rule 16 of the CCS (CCA) Rules, 1965. In fact, the memo dt. 12.7.1991 is a corrigendum to the earlier memo issued to the applicant in September, 1989. As regards the prayer for return of the documents, the same cannot be ~~returned~~ ^{allowed} till the enquiry is concluded.

8. We, therefore, hold that the application is devoid of merits and is dismissed at the admission stage itself leaving the parties to bear their own costs.


(J.P. SHARMA)
MEMBER (J) 1.11.91


(D.K. CHAKRAVORTY)
MEMBER (A) 1/11/91