

Central Administrative Tribunal
Principal Bench: New Delhi

13

OA 2399/91

New Delhi this the 11th day of April 1997.

11-4-97

Hon'ble Dr Jose P. Verghese, Vice Chairman (J)
Hon'ble Mr S.P.Biswas, Member (A)

Zakir Husain
Son of Shri Nasruddin
R/o 332/4 Batla House
Jamia Nagar, New Delhi - 110 025. ...Applicant.
(By advocate: Shri S.C.Saxena)

Versus

Union of India through

1. Secretary
Ministry of Human Resources Development
Department of Culture
New Delhi.
2. Dr. R.K. Perti
Director General of Archives
National Archives of India
Janpath
New Delhi-110 001.
3. Shri P.L.Madan
Assistant Director of Archives
TF-II Inquiry Officer
National Archives of India
New Delhi.
4. Shri N. Sikdar
Deputy Educational Adviser
Department of Culture
New Delhi.

...Respondents.

(By advocate: Shri M.M. Sudan)

O R D E R

Hon'ble Mr S.P.Biswas

The only issue for determination in this original application is whether the departmental proceedings initiated against the applicant herein has been vitiated because of non-observation of the laid down procedures.

The applicant, an Archivist in the National Archives of India, has challenged Annexure-L order dated 13.6.88 by which he has been punished with a penalty of "censure" and "warning" by the Disciplinary Authority. He has also challenged Annexure-N order

dated 29.5.91 by which his appeal against imposition of the aforesaid penalty has been considered and rejected. 14

The applicant has assailed the punishment order on the ground that the enquiry conducted against him was in violation of the provisions of the law, i.e. Rule 3 (2) (iii) of C.C.S. (Conduct) Rules. The above rules provide that:

"The direction of the official superior shall ordinarily be in writing. Oral direction to subordinates shall be avoided, as far as possible. Where the issue of oral direction becomes unavoidable, the official superior shall confirm it in writing immediately thereafter."

The impugned orders have also been held to be bad in law because the enquiry has been conducted on the verbal, vague and evasive complaint of Assistant Director of Archives (ADA for short) and that the petitioner was never allowed to cross examine the main witness (complainant) despite repeated requests of the petitioner. The appellate order, the applicant alleges, is vitiated since it does not disclose the reasons for rejection.

Respondents, on the contrary, have opposed ~~the~~ ~~controversy~~ the applicant's claims. According to findings of the enquiry officer, the applicant was found to be guilty of the two charges levelled against 2

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him. The first charge regarding disobedience to orders stands established. The applicant did not carry out the orders immediately but after sometime and that too after unpleasant altercations. The second charge is that he is guilty of using abusive language. This has been apparently established. (15)

Learned counsel for the applicant argued that based on findings of the enquiry officer, the second charge has not been established conclusively. As regards the first charge, learned counsel submitted that the main witness was not allowed to be cross examined. We have gone through the records carefully and find that the procedures for conducting the departmental enquiry have been complied with. The enquiry was instituted by the Disciplinary Authority only after receiving written complaints from the concerned Divisional Heads i.e. the Assistant Director of Archives (OR). The applicant was also given fullest opportunity during the proceedings. The procedures laid down under C.C.S. (Conduct) Rules 1964 were complied with. The allegations of disobedience of orders of the superior and use of abusive language were enquired into as per the provisions laid down. The reasons for holding the enquiry were intimated to the applicant. The finding of the inquiry officer in respect of the two charges are reproduced below:

"Sh. Zakir Hussain is guilty to the first charge so far as he did not obey the orders immediately but after sometime and that too after some discussion. To the second charge, the evidence seems to be that he is guilty of using abusive language"

16

In a departmental enquiry, the standard of proof for proving the guilt of an official is preponderance of probability and not proof beyond reasonable doubt. The Tribunal cannot go into the adequacy of evidence. We find that this stand of ours is supported by the decision of the Tribunal in the case of K. Sethuraman V. General Manager, Madras Telephones 1989 (1) Service Law Reporter 701. We also find that the request to examine certain witnesses may or may not be accepted by the Enquiry Officer and the proceedings cannot be treated to have been vitiated on this account so long as the enquiry officer has recorded special and sufficient reasons for rejecting the request. We are fortified in this respect by the decision of this Tribunal in the case of A. Velayuthan Vs. UOI 1993 (7) Service Law Reporter 131. We do not find any ground, much less a valid one, to interfere in the proceedings and quash the impugned orders. In the absence of any infirmity in the departmental proceedings, we do not consider it a fit case warranting our interference and provide reliefs on unsubstantiated grounds.

The application fails on merits and is accordingly dismissed.

There is no order as to costs.



(S.P. BISWAS)
MEMBER (A)



(JOSE P. VERGHESE)
VICE-CHAIRMAN (J)