

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.3061/1991

New Delhi, this 28th day of April, 1997

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

Shri Ashok Kumar, Storekeeper
Quality Assurance Establishment(S)
(DGQA), Anand Parbat, New Delhi .. Applicant

(By Advocate Shri B.L. Babbar)

versus

Union of India, through

1. Director General
Quality Assurance
Ministry of Defence, South Block
New Delhi

2. Quality Assurance Officer
QAE (Stores) (DGQA)
Ministry of Defence, New Delhi .. Respondents

(By Advocate Shri V.S.R. Krishna)

ORDER

Hon'ble Shri S.P. Biswas

The applicant is aggrieved by two adverse consequences of Annexure A-I order dated 28.11.91. By the said order, his appeal against punishment has been rejected and at the same time recovery of Rs.6261 from his pay and allowances from December, 1991 has been ordered.

2. The facts of the case lie in a narrow compass and are briefly stated hereunder.

3. The applicant took charge of the Stores under the respondents on 14.7.88. There was loss of store items in the night of 28-29.9.88. An FIR was lodged subsequently on 29.9.88. On 3.10.88, the applicant undertook the responsibility to make good the loss and the FIR was accordingly withdrawn on 13.10.88. A Board

of Enquiry was ordered and the Board found him responsible for the discrepanciesⁱⁿ the store items. The applicant was issued Charge-sheet under Rule 16 of Central Civil Services (Classification, Control and Appeal) Rules, 1965 on 26.12.88 and he submitted reply on 7.1.89. The order of the disciplinary authority awarding penalty of recovery of loss was issued to the applicant on 21.12.89, after considering the latter's defence.

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4. The applicant has appealed against the impugned order of punishment on the basis of the following:

(i) that when he was in-charge of quality assurance, there was no transaction of receipt/despatch of liveries, there was no irregularity or loss in the store items, there was no adverse comments from any superior officer about the performance of the applicant;

(ii) that administration did not conduct any preliminary enquiry into the incident, the charges levelled against him in the charge-sheet were vague and based on conjectures and surmises, there was no material on which the charges have been framed;

(iii) that the order of penalty is defective and illegal because no formal enquiry has been held prior to the issue of charge-sheet; and

(iv) that respondents themselves have admitted that it was a case of theft.

5. Respondents have opposed the claim. It has been submitted that the applicant filed his written statement on 3.10.88 duly witnessed by two officers working under the respondents admitting that due to oversight some of entries regarding issue/receipt of liveries have not been made in the ledger which resulted in the discrepancy in the store items. Enquiry has been held after giving an opportunity to the applicant and the Board of Enquiry had held that the applicant was the custodian of the Stores and the loss of store items is

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(10)


directly attributable to the carelessness and negligence of the applicant. An investigation was carried out for the loss of store items by the duly constituted Board of Enquiry and the applicant's representation dated 7.10.89 was duly considered by the disciplinary authority before as awarding the penalty of recovery.

6. We find that the applicant in Annexure A-2 has made the following admission:

"I beg to state that due to oversight/overload of work, it is possible that some of entries regarding issue/receipt of liveries have not been made in ledger which resulted in discrepancy of stores. I take the responsibility to make good of the discrepancy in question. The above statement is being made by me voluntarily and without any prespsure."

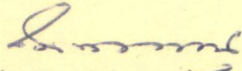
7. We also notice that the applicant was the custodian of Stores with effect from 14.7.88 and the loss was determined by an appropriate body which came to the conclusion that the loss was directly attributable to the carelessness and negligence on the part of the applicant. Annexure A-4 charge-sheet was issued in clear terms by bringing out the misconduct/culpability of the applicant without any iota of doubt.


8. The applicant's appeal against the order of punishment was duly considered by the appellate authority. Annexure A-7 appellate order is in keeping with the rules and regulations on the subject. The appellate authority has recorded reasons for rejection and this order cannot be faulted in terms of provisions under Rule 27(ii) of CCS(CCA) Rules, 1965.



9. In the background and circumstances aforementioned, there are no grounds, much less any convincing one, for the Tribunal to interfere with the penalty as at Annexure A-I order dated 28.11.91.

10. In the result the application fails on merits and is accordingly dismissed but in the circumstances without any order as to costs.


(S.P. Biswas)
Member(A)


(Dr. Jose P. Verghese)
Vice-Chairman(J)

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