

Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.No.347/91

New Delhi this the 22nd Day of February, 1996.

Hon'ble Sh. B.K. Singh, Member(A)
Hon'ble Dr. A. Vedavalli, Member(J)

Shri Anand Singh Rawat,
S/o Sh. Gian Singh Rawat,
R/o 40/13, M.B. Road,
Saket, New Delhi-110017. Applicant

(through Sh. K.L. Bhandula, advocate)

versus

1. Union of India,
through Secretary to the
Govt. of India, Ministry of
Defence, South Block,
New Delhi.
2. The Director(E),
Ministry of Defence,
C-II Mutments,
New Delhi.

. Respondents

(through Sh. K.C.D. Gangwani, advocate)

ORDER(ORAL)
delivered by Hon'ble Sh. B.K. Singh, Member(A)

This O.A. is directed against Order
No.A-45013/3/88/D(Est.I/Gp.I) dated 13.11.1990.

The facts of the case are that the applicant joined the Ministry of Defence as peon on 8.1.1971 and was promoted as daftry. While he was working as daftri in the Medal Section of the Ministry of Defence in the pay scale of Rs.775-1025 during April, 1985, undistributed 35 silver medals which were received in the Medal Section of the Ministry of Defence were found missing from there. The case was also registered in Police in May, 1985 but the Police did not succeed in detecting the culprits. On 23.10.1986, the applicant alongwith 3 other colleagues of Medal Section received a memo saying that disciplinary action was contemplated

10

against them. A chargesheet was issued on 21.11.1986 to the applicant jointly alongwith 3 other colleagues. The statement of article of charges reads as follows:-

"That the said S/Shri S.K. Bhatt, Mohan Singh Negi, Mahadev Ram and A.S. Rawat, while functioning in DMR&F Section has been involved closely association with the theft/misappropriation of 35 silver medals."

By the above act, the said S/Shri S.K. Bhatt, Mohan Singh Negi, Mahadev Ram and A.S. Rawat, have failed to maintain devotion to duty and have shown conduct unbecoming of a Govt. servant in contravention of Rule 3 of the Central Civil Services (Conduct) Rules, 1964.

The statement of imputation of misconduct was:-

"S/Shri S.K. Bhatt, Mohan Singh Negi, Mahadev Ram and A.S. Rawat have been found to be closely associated/involved with the theft/misappropriation of 35 undistributed silver medals despatched by the Central Registry of Bureau of Sailors, Bombay on 15th April, 1985."

Subsequently the report was submitted to the Appellate Authority. The Appellate Authority ordered the Disciplinary Authority to conduct a fresh enquiry because he found that the enquiry was not as per prescribed procedure. The applicant was subsequently placed under suspension vide order dated 31.8.1988 and served with a chargesheet on 17.11.1988. In this chargesheet, instead of common proceedings, the applicant was chargesheeted separately. The enquiry was conducted against the applicant but the enquiry report has not been filed by the applicant, only an extract has been given. The Disciplinary Authority disagreed with the enquiry report and imposed the penalty of compulsory retirement on the applicant on the basis of the evidence produced before him. The order of the Disciplinary Authority is dated

30.11.1990. The applicant has also filed an appeal before the Appellate Authority and the Appellate Authority has recorded a detailed order which is annexed as Annexure R-VII to the counter-affidavit. The order of the Disciplinary Authority has now merged with the order passed by the Appellate Authority dt. 13.9.1991. The Appellate Authority has examined the various issues raised by the applicant in his appeal and has arrived at a definite finding that the applicant is guilty and he has been rightly punished by the order of compulsory retirement. In it it has been further held that the statements in the preliminary investigation were recorded by the concerned employee in his own handwriting and are indicated to be made voluntarily without being under any duress. Shri Rawat participated in, and had reasonable opportunity to defend himself during the formal enquiry under Rule 14 of CCS(CCA) Rules. The Appellate Authority has stated that the manner and method of conducting the enquiry cannot be faulted with and that the Disciplinary Authority had passed a speaking order. It has been further said in the appellate order, that the report submitted by the enquiry officer is in accordance with the provisions of clause (i) of sub-rule (23) of Rule 14 of the CCS (CCA) Rules. In the order it has been further said that the records do not show any contradictory statement made by Shri M.S. Negi. After taking a synoptic view of all the facts and circumstances of the case, the Appellate Authority agreed with the orders of the Disciplinary Authority and rejected the appeal.

The applicant has prayed for the following reliefs:-

- "(i) that the Hon'ble Tribunal may please issue directions that the applicant may not be asked to vacate Govt. accommodation No. 40/13, M.B. Road, Saket, New Delhi till the disposal of the application;
- (ii) that the respondents may be directed to pay the applicant his pension and other pensionary benefits consequent on the ordering his compulsory retirement without prejudice to his case; and
- (iii) that the appeal of the applicant dated 17.12.1990 may be disposed of."

On notice the respondents contested the application and grant of reliefs prayed for.

We heard the learned counsel for the parties and perused the record of the case.

The law has been laid down clearly by the Hon'ble Supreme Court in case of State of Orissa and others Vs. Bidyabhushan Mohapatra AIR 1963 SC 779 wherein it was held that the court has no jurisdiction under Article 226 of the Constitution to sit as an appellate body over the findings of the Disciplinary Authority/ Appellate Authority. The scope of judicial review is limited. It is required to see the manner in which the enquiry has been conducted. It is not to concern itself with the quantum of punishment or with the findings of the Disciplinary Authority/Appellate Authority. The court can interfere only if it is a case of no-evidence or the findings are perverse which no prudent man can arrive at on the basis of the evidence

B

available before him. This law was further reiterated in case of Railway Board, New Delhi and another Vs. Niranjan Singh AIR 1969 SC 966. It has been further held by the Hon'ble Supreme Court in case of Union of India Vs. Parma Nanda AIR 1989 SC 1185 that the Court/Tribunal has no jurisdiction to substitute itself in place of the Disciplinary Authority/Appellate Authority who have been vested with the powers under rules framed under proviso to Article 309 of the Constitution to impose punishment on a delinquent employee. It has also been held that the Appellate Authority has "wider powers than the court/Tribunal since he is fully vested with the power to modify any order passed by the Disciplinary Authority and the same is not vested in the Court/Tribunal while exercising judicial review under Article 226 of the Constitution. This view has been further elaborated in case of State Bank of India & Ors. Vs. Samarendra Kishore Endow & Ors. JT 1994(1) SC 217.

In view of the law laid down by the Hon'ble Supreme Court, we are unable to interfere with the orders of the Disciplinary Authority/Appellate Authority and we also hold that the three elements of principles of natural justice i.e. that the charges should be clear and that the applicant should be given adequate opportunity to state his case and that the Disciplinary Authority/Appellate Authority must pass a speaking order have been followed in this case. Thus the application fails and is dismissed, leaving the parties to bear their own costs.

A. Vedavalli
(Dr. A. Vedavalli)
Member(J)

B
(B.K. Singh)
Member(A)