

Central Administrative Tribunal
Principal Bench, New Delhi.

OA-2077/2004

New Delhi this the 4th day of August, 2005.

Hon'ble Shri Shanker Raju, Member(J)

R.C. Sharma,
S/o Sh. Babu Lal Sharma,
Ex. A.M.D.O.,
Delhi Milk Scheme,
A-330, Shastri Nagar,
Delhi-52.

..... Applicant

(through Sh. Narain Bhatia, Advocate)

Versus

1. General Manager,
Delhi Milk Scheme,
Shadipur, Patel Nagar,
New Delhi-8.
2. Jt. Secretary to Govt. of India,
Ministry of Agriculture,
Deptt. of Animal Husbandry &
Dairying, New Delhi-1.
3. Secretary to Govt. of India,
Ministry of Agriculture,
Deptt. of Animal Husbandry & Dairying,
Krishi Bhawan,
New Delhi.

..... Respondents

(through Sh. S.M. Arif, Advocate)

Order (Oral)

Applicant impugns the order dated 1.12.2001 imposing upon him a minor penalty of stoppage of three increments, order passed in appeal on 22.7.2003 upholding the punishment as well as the order passed in review on 5.3.2004 reducing the penalty to stoppage of one increment.

2. Applicant, who was working as Assistant Milk Distribution Officer in Delhi Milk Scheme was issued a minor penalty of chargesheet under Rule 16 of the CCS (CCA) Rules, 1965, on the ground that he over-looked the irregular and unauthorized construction/renovation in Depot No.299 which was converted by the Concessionaire of the Depot into All Day Milk Stall without approval of the competent authority. In reply, he denied the allegations, which resulted into a minor penalty, which was affirmed in appeal and reducing in review, giving rise to the present O.A.

3. Learned counsel of the applicant states that the penalty has casted on retrial benefits and the applicant has not committed any misconduct. It is stated that Disciplinary Authority was biased and acted as a judge in its own course by visiting the Depot and deciding the case as a Disciplinary Authority.

4. It is also stated that the minor construction has been carried out within the agreement entered into between Concessionaire and the DMS and this construction was subsequently regularized. As such, the applicant has not committed any misconduct.

5. On the other hand, respondents' counsel, vehemently opposed the contentions and stated that Depot 299 was converted in All Day Milk Stall without any approval from the authorities. The proceedings were undertaken under the rules without any legal infirmity.

6. I have carefully considered the rival contentions of the parties and perused the material placed on record.

7. Merely because General Manager has inspected the Depot and found unauthorized constructions is neither a complainant nor a witness. As such, there is no ~~impediment~~ to act as a Disciplinary Authority.

8. As regards misconduct, I cannot in a judicial review re-apprise the evidence. However, being an officer, it is incumbent upon the applicant to be more vigilant as to irregular and unauthorized construction which resulted in initiation of All Day Milk Booth by the Concessionaire. The permission to have renovation sought on 30.8.2003 was accorded only on 2.9.2003 though it is permissible for the Concessionaire to have petty minor alterations but he cannot convert it as All Day Milk Booth, which requires formal approval. As a supervisor, it is incumbent upon the applicant to have detected this and to report to the authorities. Having not to do so, I do not find any legal infirmity in the order passed by the respondents. Accordingly, the OA is dismissed. No costs.

S. Raju
(Shanker Raju)
Member(J)