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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.NO.791/2004

New Delhi, this the 31st day of March, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN  
HON'BLE SHRI R.K.UPADHYAYA, MEMBER (A)

G.S. Chauhan  
Gp 'B' Gazetted  
S/o Late K.S.Chauhan  
R/o - 34-Q, Bindal Road (Khurgura)  
Distt: Dehradun (Uttanchal). ... Applicant

(By Advocate: Shri A.K. Trivedi)

Versus

1. Council of Scientific & Industrial Research (CSIR) through its Secretary Anusandhan Bhawan Rafi Marg New Delhi - 110 001.
2. The Chief Vigilance Officer Council of Scientific & Industrial Research Anusandhan Bhawan, Rafi Marg New Delhi - 110 001.
3. The Joint Secretary (Admn.) Council of Scientific & Industrial Research Anusandhan Bhawan, Rafi Marg New Delhi - 110 001. ... Respondents

O R D E R (Oral)

Justice V.S. Aggarwal:-

Applicant Shri J.S.Chauhan was working as Deputy Stores Purchase Officer at I.I.P., Dehradun. He had been served with the following articles of charge:

ARTICLE-I

"That Shri GS Chauhan while functioning as Deputy Stores and Purchase Officer (Dy.SPO) at IIP Dehradun, during the year 1996 and onwards committed gross misconduct inasmuch as, he failed to process the letter dated 7.1.1997 from M/s Lakhbir Singh, the contractor who was awarded the contract for lifting of the logs of woods from IIP premises vide IIP letter No.IIP/ST/WL/DISP/96 dated

/s/ Ag

(13)

6.1.1997. M/s Lakhbir Singh vide his letter referred to above had put some conditions for lifting the wood after the award, which would not have been accepted. Shri Chauhan failed to bring these conditions to the notice of the competent authority. The above omission on the part of Shri Chauhan resulted into receipt of part payment instead of the full payment as per the contract.

By the aforesaid lapses on the part of Sh. Chauhan, he has failed to maintain and devotion to duty and acted in a manner unbecoming of Council servant and thereby contravened Rule 3(1) (ii) and (iii) of CCS (Conduct) Rules, 1964 as made applicable to Council employees.

#### ARTICLE - II

That the said Shri GS Chauhan, while working as Deputy Stores and Purchase officer from 1996 onwards at IIP, Dehradun, committed misconduct inasmuch as he entertained the request dated 24/02/1997 of the Contractor M/s Lakhbir Singh to deposit the part payment for lifting the logs of woods much after the time limit of 10 days and as stipulated in the award letter dated 06/01/1997.

By his above act of omission and commission Shri Chauhan has failed to maintain and devotion to duty and acted in a manner unbecoming of Council servant and thereby contravened Rule 3(1)(ii) and (iii) of CCS (Conduct) Rules, 1964 as made applicable to Council employees.

#### ARTICLE - III

That the said Shri GS Chauhan, while working as Deputy Stores and Purchase officer from 1996 onwards at IIP, Dehradun, committed misconduct inasmuch as he without obtaining the approval of competent authority allowed Shri Lakhbir Singh, Contractor, to deposit part payment from time to time, in violation of the terms and conditions of the contract, which facilitated lifting of better wood first by the contractor and his refusal to lift the inferior wood at the quoted price of Rs.377/- per quintal and offered to lift the remaining wood at a reduced price only thus allowing undue monetary benefit to the contractor and putting the institute to heavy loss.

By his above act of omission and



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commission, Shri Chauhan failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Council servant and thereby contravened Rule 3(1)(ii) and (iii) of CCS (Conduct) Rules, 1964 as made applicable to Council employees.

2. The disciplinary authority on basis of the same, imposed a penalty of reduction by two stages in the time scale of pay for a period of two years with further direction that he will not earn increments of pay during the period of such reduction and on expiry of this period, the reduction will have the effect of postponing his future increments of pay. He preferred an appeal which has since been dismissed.

3. By virtue of the present application, the applicant seeks to assail the orders so passed.

4. Learned counsel for the applicant contends:

- (a) the relevant documents had not been supplied and inspection of the same which was permitted, would not meet the ends of justice.
- (b) an important witness was not examined by the Presenting Officer; and
- (c) the applicant was not given sufficient opportunity to produce

ls Ag



his defence witnesses.

5. We have carefully considered the submissions made at the Bar. So far as the first contention that documents were not supplied is concerned, indeed the same has to be examined on the touch stone of prejudice having caused or not. In the present case before us, admittedly inspection of the documents had been allowed. It is not shown that by mere inspection the applicant could not defend the departmental proceedings against him properly. In that view of the matter, the contention that was referred to above, has to be stated to be rejected.

6. So far as non-examination of a particular witness is concerned, indeed it is for the Presenting Officer to see as to which witness he would examine and some of the witnesses can always be dropped. If the applicant felt that for his defence a particular witness was relevant, he could have made a request or himself examine the same in this regard. In fact, the record reveals that on 7.4.2003 the applicant had informed that the case should be treated as closed from his side. The order sheet is signed by the applicant and his defence assistant. Therefore, contentions (b) and (c) in the facts of the present case must be held to be devoid of any merit.

7. At this stage, learned counsel for the applicant had pointed that the penalty awarded is



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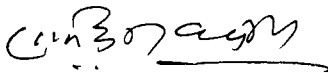
disproportionate to the alleged dereliction of duty.


8. The scope of interference in judicial review pertaining to the penalty awarded would be available when it shocks the conscience of this Tribunal. We have already reproduced above the charges that have been framed against the applicant.

9. Keeping in view the facts that have been proved, the penalty awarded cannot be stated to be disproportionate to the alleged dereliction of duty.

10. No other argument has been raised.

11. Resultantly, the OA being without merit must fail and is dismissed.

  
(R.K. Upadhyaya)  
Member (A)

  
(V.S. Aggarwal)  
Chairman

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