

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

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O.A. No. 1913 of 1992

New Delhi, dated this the 15th October 1997

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Hardam Singh,
S/o Shhri Pritam Singh,
H.V. Driver,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi-110008.
R/o C-33, Sector IV,
Gole Market,
New Delhi-110001.

... APPLICANT

(By Advocates: Shri S.C. Luthra with
Shri O.P. Khokha)

VERSUS

1. Union of India through
the Secretary,
Ministry of Agriculture,
Krishi Bhawan,
New Delhi.
2. Shri Ram Singh
Formerly General Manager,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi-110008.
3. Shri R.L. Luthra,
Dairy Supervisor,
Delhi Milk Scheme,
New Delhi-110008.
4. Shri S.P. Singh,
Security Supervisor,
Delhi Milk Scheme,
New Delhi-110008.
5. Director of Estate,
Nirman Bhawan,
New Delhi.

... RESPONDENTS

(By Advocate: Shri S.M. Arif)

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns respondents order
dated 3.8.90 (Annexure A-1) imposing the
penalty of compulsory retirement with
immediate effect and the appellate order

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dated 5.6.92 (Annexure A-II) rejecting the appeal.

2. Applicant was a Heavy Vehicle Driver in Delhi Milk Scheme. He was proceeded against departmentally on the charge that while deployed on milk distribution duty on 6.12.88 along with other staff, the route was checked by security staff and upon unloading being ordered it was detected that 35 polypacks of one litre each was in excess on that particular route as per route schedule. Applicant was thus charged with attempting to pilper these polypacks in connivance with other staff. The E.O. in his report dated 12.6.90 held the charge as proved. A copy of the same was issued tgo applicant for representation if any and applicant submitted his representation on 6.7.90. After considering the enquiry report, the applicant's representation and the other materials on record, the G.M. issued impugned order dated 3.8.90 imposing the penalty of compulsory retirement. Applicant filed an appeal to the Secretary, Dept. of Agriculture, who by his impugned order dated 5.6.92 rejected the same, upon which applicant has filed the present O.A.

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3. A number of grounds have been taken in the O.A. to challenge the impugned orders including cross-examination by E.O. of PW-2 and thus functioning both as prosecutor and judge; failure to compel attendance of witnesses sought by applicant; including witness S.P. Singh to whom applicant had given a report which bore his (S.P. Singh) endorsement and behind the prosecution story; non-examination of PW Raj Singh; absence of any evidence against applicant; non-compliance of Rule 14(18) CCS (CCA) Rules; non-consideration of grounds taken in appeal.

4. One important ground raised by applicant is that as per Agriculture Ministry's order dated 7.7.84 a copy of which is taken on record, the Disciplinary Authority in applicant's case was not the G.M. but the Dy. G.M. (Admn.) and the appellate authority is not the Secretary, Dept. of Agriculture but the G.M. It was contended by applicant's counsel that with the G.M. functioning as the Disciplinary Authority and the Secretary, Dept. of Agriculture functioning as the appellate authority, applicant had effectively been deprived of his opportunity to file a revision petition before the Secretary, Dept. of Agriculture which had greatly prejudiced him. Nothing has been ^{shown} by respondents to rebut this legal position.

5. In the result, without going into the other grounds, this O.A. is entitled to judicial interference on the aforesaid ground. The O.A. is allowed to this extent that the impugned orders dated 3.8.90 and 5.6.92 are quashed and set aside. In accordance with the ratio of Hon'ble Supreme Court's judgment in State of Punjab Vs. Dr. H.S. Greasy JT 1996 (5) SC 403 the case is remanded back to the competent Disciplinary Authority to pass appropriate orders in accordance with law in the departmental proceeding, within three months from the date of receipt of a copy of this judgment. While doing so he will also take into account the points raised by applicant and referred to in para three above. In case the Disciplinary Authority reinstates the applicant, he will also determine in accordance with relevant rules and instructions the manner in which the intervening period is to be treated.

6. The O.A. is disposed of in terms of Para 5 above. No costs.



(DR. A. VEDAVALLI)
Member (J)

/GK/



(S.R. ADIGE)
Vice Chairman (A)