

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. 227/92

Date of decision: 15/12/92.

Narain Singh

.. Applicant.

versus

Union of India &
others.

.. Respondents.

Sh.O.N.Trishal

.. Counsel for the applicant.

Sh.M.L.Verma

.. Counsel for the respondents.

CORAM:

The Hon'ble Sh.Justice Ram Pal Singh, Vice Chairman(J).

The Hon'ble Sh.I.P.Gupta, Member(A).

J U D G E M E N T

(Delivered by Hon'ble Sh.Justice Ram Pal Singh, V.C.(J))

By this O.A. filed under Section 19 of the Administrative Tribunals Act of 1985, the applicant prays for the following reliefs:

- i) Enquiry proceedings be quashed.
- ii) Order of punishment of removal from service dated 8.10.90 and also the appellate order be quashed.
- iii) The applicant be restored to his job as Security Guard with all consequential benefits w.e.f. 8.10.90

2. The applicant is an Ex-army Personnel who was selected by the respondents as a Security Guard in the office of the Chief Engineer (R & D), All India Radio, New Delhi on 1.12.86, subsequently confirmed on 1.12.89. He was served with a memorandum dated 7.2.90 for a departmental enquiry under rule 14 of the C.C.S(C.C.A.) Rules of 1965 (hereinafter referred as Rules). The articles of charges were that the applicant did not put up the prescribed uniform during the performance

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of his duties; that the applicant misbehaved with one B.S.Nagar, Assistant Engineer on 15.11.89 and threatened him with murderous assault; that on 7.12.89 the applicant left his duty on 21.00 hours without handing over charges to Rajinder Singh, another Security Guard and the applicant remained absent from duty from 9.12.90 to 14.1.90 without obtaining sanction of his leave from the competent authority. The disciplinary authority appointed respondent No.5 as the Enquiry Officer after the applicant was served with all the documents. According to the enquiry report all the charges were said to be proved against the delinquent, because according to the enquiry report, the applicant admitted that he did not wear the leather belt while wearing the prescribed uniform. It is also said that the applicant admitted the other charges also and was found to have remained absent without obtaining the permission to proceed on leave. With regard to this, documents were produced by the Presenting Officer for proving the case of prosecution pertaining to the charges. Subsequently the Disciplinary authority, by order dated 8.10.90 (annexure 15-A) passed the impugned order, imposing the penalty of his removal from service on the ground that all the articles of charges were found proved against the delinquent. According to this impugned order he was further provided another opportunity to show cause in writing and was also heard before the penalty was imposed. The reasons for imposing the penalty has been given by the disciplinary authority in the impugned order dated 8.10.90. Subsequently the applicant filed a statutory appeal under rule 27 (2) of the Rules. The Appellate Authority considered the appeal and passed annexure A-16 on 1.2.91 by which he rejected the appeal of the applicant. Both

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these impugned orders, passed by the disciplinary authority and also by the Appellate Authority, are under challenge in this O.A.

3. Respondents, on notice, appeared and filed their counter. They contended that any minor irregularity which does not go to the root of the matter, cannot vitiate the findings recorded by both the parties. They have controverted the contents of the O.A. and maintained that the applicant has admitted the charges that; he was provided with an opportunity for the defence assistant; and that all the principles of natural justice were followed during the enquiry. Applicant also filed the rejoinder reiterating his previous stand taken in the O.A.

4. Sh.Trishal strongly contended that the applicant did not admit, according to documents, the articles of charges with regard to not wearing the full uniform. He also contended that on articles No.2, 3 and 4 the applicant did not admit but signed the documents on undue pressure upon him by the Enquiry Officer. He also contended that it was the duty of the Enquiry Officer to inform him specifically about his right to engage a defence assistant. He further contended that as the Enquiry Officer failed to inform the delinquent about his right, the entire enquiry stands vitiated as he could not avail the defence assistance. He also contended that the appellate order is also vitiated because none of these grounds which he raised in appeal, were not considered by the appellate authority. Learned counsel for the respondents Sh.M.L.Verma, on orders from the Bench has produced the original records of

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departmental enquiry which we have closely examined to find out the strength in the submissions of Sh.Trishal. Articles of charge No.1 relates to the misconduct that the applicant did not wear full uniform. For this we have perused the original record and found the material that the applicant admitted this fact that he did not wear "full uniform on religious grounds". On further perusal of the records it also appears that the delinquent was reluctant to wear the leather belt on religious grounds. So far as articles of charges No.2, 3 and 4 are concerned, we found on examination of records that the applicant has specifically admitted these three charges also. The entire enquiry was conducted in Hindi and the applicant has signed those documents in which his admissions are recorded.

5. It cannot be said that the applicant did not follow the proceedings and has signed without understanding the proceedings which were in Hindi. The applicant is said to be educated upto 4th or 5th standard and his clear signatures on admissions cannot be doubted.

6. The Enquiry Officer had specifically asked the applicant as to whether he wants his defence assistant or not and to this the applicant replied that he will plead his case himself. This question was asked to the applicant in the proceedings dated 30.5.90. The Enquiry Officer had clearly informed the applicant that he can have the assistance of his choice. If the applicant declines to engage a defence assistant then the Enquiry Officer cannot be faulted. The arguments of the applicant cannot be accepted that as the Enquiry Officer did not inform the applicant about his right

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to engage a defence assistant, the Enquiry Officer ~~xx~~ has clearly conveyed and informed the applicant that he can avail the defence assistant in this enquiry. But if the delinquent does not accept the offer and declines it by saying that he will conduct his defence himself then the Enquiry Officer cannot force the applicant to have the assistance. The documents which were produced from the side of prosecution, were previously supplied to the applicant. These documents were offered by the Presenting Officer at the time of the enquiry and when the applicant was confronted with these documents then he expressed his admission to the grounds of charges No.2, 3 and 4. The proceedings are clearly typed in Hindi and the applicant has appended his signatures with date in which his admissions were clearly recorded. These grounds, urged by the applicant, appear to be baseless.

7. The contentions of the 1d. counsel for the applicant is that as he reported to the authorities with regard to the conduct of B.S.Sagar, K.Thyagarajan, K.K.Taneja and Bikram Singh that is why he is being falsely implicated by the departmental enquiry by the Assistant Research Engineers. The incident is said to be of 15.11.89 concerning murderous threat to B.S.Sagar. The complaint filed by the applicant is dated 7.2.90 and the order thereon passed by G.V.Pandey, Research Engineer is dated 8.2.90. This clearly shows that after a long lapse of time the applicant, as a result of after thought, has lodged, annexure 5-A, complaint on 7.2.90. Annexure 4-A^{which} contains the memorandum for initiating the departmental enquiry is also dated 7.2.90. It appears that upon receiving this memorandum for initiation of the departmental enquiry against him, the applicant, as a result of after thought, on 7.2.90 lodged written report against
Lankh the persons named hereinabove. The detailed proceedings

are contained in annexure 9-A dated 16.4.90 and in annexure 9-C dated 11.5.90. It does not appear that the applicant was prejudiced in his departmental enquiry in any manner. The disciplinary authority, after issuing notice to him, has also heard him in person and it is only then the impugned order Annexure 15-A was passed on 8.10.90.

8. We have also perused the appellate order, annexure 16. The appellate order has methodically dealt with the grounds raised by the applicant and separate charges have also been discussed by the appellate authority. After admission of the charges the applicant wants to resile from his stand. Admission of guilt or admission of charges appear to be voluntary and cannot be said that they were forced upon him by the Enquiry Officer. We have closely examined the record to see whether the admission was voluntary or not. Nothing appears on record to controvert the fact that the applicant has knowingly and voluntarily recorded his admission to the charges. The learned counsel for the applicant has also cited the case of Meen Glass Estate Tea / (ATR 1963 S.C. 1719). This judgement is of no help to the applicant because of the principles of natural justice were observed by the Enquiry Officer, by the Disciplinary Authority and also by the Appellate Authority. The arguments of Sh.Trishal, learned counsel for the applicant, that the applicant was only told and not informed that he has right to seek the assistance of the defence, deserves to be rejected outright because the proceedings show

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that the enquiry officer, by telling him a fact has also stressed the need of defence assistance in the departmental enquiry, which was politely declind by the applicant because he wanted to conduct the defence himself.

9. This O.A. appears to be bereft of any merit. It is, therefore, dismissed with no order as to costs.

I.P.Gupta
(I.P.GUPTA) 15/12/92
MEMBER(A)

Ram Pal Singh
(RAM PAL SINGH)
VICE CHAIRMAN(J)