IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 2705/91 with OA 616/92

(10)

New Delhi this the 12th day of May, 1997.

HonIble Smt.Lakshmi Swaminathan, Member (J)
Hon'ble Shri R.K.Ahooja, Member (A)

OA 2705/91

Shri Ishwar Singh
S/o Shri Chander Bhan
Village Shidipur, P.S. Bahadur Garh,
District Rohtak(Haryana) last employed
as Mate in Delhi Milk Scheme,West Patel
Nagar, New Delhi. ... Applicant

(By Advocate Shri S.N. Shukla)

Vs.

1. Union of India, through the Secretery,
Ministry of Agriculture,
Department of Agriculture and Co-operation,
Krishi Bhawan, New Delhi-1

2. The General Manager,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi-110008 ... Respondents

(By Advocate Shri V.S. R. Krishna)

OA-616/92

Shri Jawahar
s/o Shri Budh Ram
R/o I-300,Mangol Puri,Delhi. ... Applicant

(By Advocate Shri S.N. Shukla)

Vs.

1. Union of India, through the Secy.,
Ministry of Agriculture,
Department of Agriculture & Co-operation
Krishi Bhawan, New Delhi-1

2. The General Manager,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi-8

(By Advocate Shri V.S.R. Krishna) ... Respondents

O R D E R (ORAL)

(Hon'ble Smt.Lakshmi Swaminathan, Member (J)

The learned counsel for the parties have submitted that since the orders challenged in these two OAs are similar and are passed by the same authority in a common departmental proceedings.and they have been upheld by the appellate

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authority, the aforesaid two O.As may be taken up together. However, for the sake of convenience the facts in OA 2705/91 are being referred to.

2. The applicant has challenged the order passed by the disciplinary authority dated 3.8.90(Ann.A.4) compulsorily retiring him, which on appeal has been confirmed by the appellate authority vide order dated 8.3.91. The main ground taken by Shri S.N.Shukla, learned counsel for the applicant is that the Enquiry Officer in his report has relied on exhibit document No.4, copy of which was not given to him. He also alleges that this document should have been included in the list appended to the charge-sheet. Learned counsel has, therefore, submitted that not supplying the document No.4 which has been relied upon both by the Enquiry Officer and later on by the disciplinary authority, means that the principles of natural justice have not been complied with. Further, relying on the judgements of the Supreme Court in Union Carbide Corporation v. UOI (AIR 1992 SC 248) and Tilak Nath V. UOI (1967 SLR 759), he submits that the disciplinary authority's order dated 3.8.90 may be quashed. The second ground taken by the learned counsel for the applicant is that the appellate authority's order is a non speaking order and that it has not dealt with the several grounds that have been raised in the appeal, including the question of non supply of document No.4 which has been relied upon by the respondents.

3. We have seen the reply of the respondents and heard Shri Krishna, learned counsel. Shri Krishna has submitted that document No.4 referred to above has, in fact, been supplied to the applicant and the applicant had also been given an opportunity to cross examine the witnesses, Ms Godhwani and K.K.Nigam, who have referred to this document which was duly verified on the date of questioning i.e. 9.6.88. He further submits that in any case document No.4 cannot be taken to have prejudiced the applicant. The charge was regarding recovery of 15 litres of excess milk poly packs from the route van, which fact he states has not been denied by the applicant and has also been proved by the witnesses who had appeared on behalf of the prosecution. On the second

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ground taken by the applicant, learned counsel, however, submits that if at all the court is of the view that the appellate authority has not passed a speaking order, the same may be remanded to the appellate authority to consider the grounds taken in the appeal afresh in accordance with law. He, however, submits that in actual fact the enquiry has been conducted according to the rules and, therefore, the application may be dismissed.

4. We have considered the pleadings and the submissions made by the learned counsel for both the parties. Taking the second point first, we find that the appellate authority's order is not a speaking order inasmuch as the various grounds taken by the applicant in his appeal dated 21.8.90 have not been considered. In particular, we find that no reference at all has been made to ~~the~~ document No.4 which has been raised as ground(b) in the appeal. In the circumstances of the case without going into other submissions made by the learned counsel for the parties, we are of the view that this is a case which should be remanded to the appellate authority for considering the case of the applicant in accordance with law and the relevant rules.

5. In the facts and circumstances of the case, we quash the appllate authority's order dated 8.3.91 in these two OAs with direction to the appellate authority to consider the appeal and pass a reasoned and speaking order within a period of three months from the date of receipt of a copy of this order with intimation to the applicant.

6. The two OAs are disposed of as above. No order as to costs.

A copy of this order should be kept in OA 616/92.

(R.K. Ahooja)
Member (A)

(Smt. Lakshmi Swaminathan)
Member (J)

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Attested
20/5/92
Advocate