

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

DA 676/92

New Delhi this the 8th day of April, 1997

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

Hon'ble Shri K. Muthukumar, Member (A)

Shri Parmanand
s/o Sh. Ram Bhagat,
R/O WZ-166, Palam Gaon,
New Delhi.

(By Advocate Shri Mahesh Srivastava) ... Applicant

Vs.

1. Union of India, service to be effected through:
Secretary, Ministry of Agriculture,
Govt. of India, Krishi Bhawan,
New Delhi.
2. General Manager,
Delhi Milk Scheme,
West Patel Nagar, New Delhi-8
3. Deputy General Manager (Admn.)
Delhi Milk Scheme, West Patel Nagar,
New Delhi-110008

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

O R D E R (ORAL)

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

The grievance of the applicant in this case is against the order of compulsory retirement passed by the disciplinary authority dated 28.8.90 which has been confirmed by the appellate authority by order dated 27.7.91.

2. We have carefully perused the pleadings and heard Shri Mahesh Srivastava, learned counsel for the applicant and Shri V.S.R. Krishna, learned counsel for the respondents.

3. The main contention of the learned counsel for the applicant is that he had received the charge sheet dated 12.7.89 thereby initiating the impugned ex parte penalty order.

In this connection, the learned counsel has also submitted that there were two enquiries conducted against the applicant simultaneously, being the one/present enquiry and ^{the} second regarding 10 lt. loose milk also in which the enquiry had been conducted by the same official, namely,

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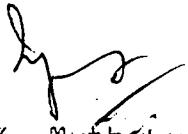
Shri R.L. Luthra. The applicant, submits that he had appeared in the second enquiry on 25.3.89, 18.1.90 and other dates. Therefore, there was no ground on which the respondents could have proceeded ex-parte in the present enquiry.

3. The respondents have filed a reply in which they have controverted the above facts. They have submitted that the charge sheet in the present enquiry was on the ground that the applicant remained absent from duty u.e.f. 21.4.89 onwards which was without any proper sanction. According to them, they have sent the charge sheet dated 12.7.89 by registered AD to the permanent address of the applicant, who claims/that he has not received the same. On the question whether the charge sheet has been received by the applicant or not, on perusal of the applicant's representation to the respondents dated 7.7.90 which is placed at page 19 of the paper book, we have no doubt at all that he has received the same and he was very much aware of the enquiry proceedings being held against him. He has stated in his representation that on most of the occasions when the dates were fixed for conducting the enquiry, he was not in office and he had come to know about it later when the date fixed was already over. No sufficient reasons have been given by the applicant why he could not participate in the enquiry. In the circumstances, we find that there is no illegality on the part of the respondents in conducting the ex-parte enquiry when the applicant, in spite of notice chose not to participate in the enquiry. We also note that the respondents have furnished the copy of the Enquiry Officer's report to the applicant and he has also filed representation thereon. We also find that the appellate authority has ^{also} ~~also~~ given ^{as} ~~reasonable~~ opportunity ^{of hearing} to the applicant before passing the penalty order. In the facts and circumstances of the case, therefore, we are satisfied that

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the principles of natural justice have been fully complied with by the respondents by affording the applicant reasonable opportunity of hearing in this case. It is also relevant to note that the penalty order of compulsory retirement clearly states that the applicant would be entitled to the pensionary benefits on pro rata basis treating his absence as dies non.

4. In the result, we find no merit in this application and the same is accordingly dismissed. No order as to costs.


K. Muthukumar
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

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