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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 1699 of 1993

the 14th day of December, 1993

Hon'ble Mr. J.P. Sharma, Member (J)

Hon'ble Mr. B.K. Singh, Member (A)

Suraj Bhan,
S/o Shri Sri Chand,
3013/16, Ranjit Nagar,
Gali No.19,
New Delhi.

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Applicant

By Advocate: Shri S.C. Luthra with Shri
O.P. Khokha

VERSUS

1. Union of India, through
The Secretary,
Ministry of Agriculture,
(Deptt. of Agriculture & Cooperation)
Krishi Bhavan, New Delhi.

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

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Respondents

By Advocate: Shri George Parackon, proxy counsel
for Shri P.P. Khurana.

ORDER (Oral)

(By Hon'ble Mr. J.P. Sharma, Member (J))

The applicant has been engaged as Heavy Vehicle Driver with the respondents, Delhi Milk Scheme. The grievance of the applicant is that he has been served with a memo of charge-sheet dated 7.5.90 with regard to alleged misconduct for a period from 1.3.90 to 15.3.90 when/loose milk collected by the said applicant was deposited in the Central Dairy. On testing by the DMS authorities, the fat contents of the said milk were found

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less than the normal standard of 3.1%. In view of this, articles of charges along with statement of imputation of misconduct with list of documents and evidence to be produced were annexed with the said memo. The applicant filed a reply and stated that he is not solely responsible as the Heavy Vehicle Driver, as he is also accompanied by other staff of DMS. He further stated that milk collected was not tested milk as it was loose milk taken delivery from the respective booths enroute where the vehicle is deployed. The grievance of the applicant is that due to impending departmental inquiry proceedings the promotion of the applicant is being with-held to the post of Van Checker and he has already been considered by the DPC in 1992 but his case has been kept in a sealed cover. The applicant has prayed for quashing of the aforesaid charge-sheet on the same pattern as the appeal of one Mr. Zile Singh was allowed by the Secretary, Ministry of Agriculture, Government of India. In interim reliefs he has prayed that the applicant be promoted on the recommendations of the DPC dated 20.4.92 to the post of Van Checker.

2. A notice was issued to the respondents who contested this application and in the reply it is conceded that , "If any adulteration is found in returned milk the HVD, and all the three mates including Badli worker, shall be responsible and the cost of fat and fat free milk will be recovered equally from them". Regarding delay, it is stated that the policy decision is under consideration as a number of rush cases are pending and they will be taken together after hearing the delinquents but due to certain administrative reasons the matter could not materialise and hence the delay.

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3. We have heard the learned counsels at length and also perused the record, particularly the order of the Secretary, Ministry of Agriculture dated 18.11.1991. The contention of the learned counsel for the applicant is that when the Secretary, Ministry of Agriculture, in a similar case while deciding the appeal, has observed that the findings of the Disciplinary Authority with regard to fasten the charge of depositing adulterated milk on Shri Zile Singh, HVD, cannot be accepted as the HVD was not equipped to test the quality of the milk returned by the depot staff. In fact, this point is to be considered on merit and the applicant shall be free to place before the Disciplinary Authority the observation made in the appeal by the competent authority of the rank of Secretary, Ministry of Agriculture.

4. Regarding delay, the respondents have clearly stated that there are bunch of cases of similar nature and they are to be considered jointly. This fact is substantiated by the representative dated 13.6.1992 by the applicant himself where a meeting in that regard was held between the employees and the authorities on 13.3.92 in which certain decisions were taken.

5. We do not want to enter into the merits at this stage as otherwise it will prejudice the case of the applicant or of the administration. However, in the fitness of things, the respondents should dispose of the pending inquiries expeditiously as directed hereinunder:-

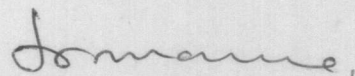
The application is disposed of with the directions to the respondents that they should conclude and complete the disciplinary inquiry pending against the applicant

on the basis of the memo issued on 7th May 1990 within a period of three months from the date of receipt of a copy of this judgment. If the applicant is still aggrieved of the findings of the inquiry proceedings, then he will be at liberty to assail the same with respect to the observations made in the above order.

6. In the circumstances, the parties are left to bear their own costs.



(B.K. Singh)
Member (A)



(J.P. Sharma)
Member (J)

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