

Central Administrative Tribunal  
Principal Bench: New Delhi  
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O.A. No. 1789/93

New Delhi, this the 26th day of July, 1999

HON'BLE SHRI S.R.ADIVE, VICE CHAIRMAN (A)  
HON'BLE SHRI P.C.KANNAN, MEMBER (J)

Narayan Singh, retired office Superintendent,  
82, Dabri Extension Main,  
P.O. Palam,  
New Delhi.

...Applicant

(By Advocate: None)

Versus

Union of India through:

1. Secretary,  
Ministry of Defence,  
VIG-III, DHQ, PO New Delhi.
2. Commandant  
3 EME Centre, PO Bairagarh,  
Bhopal (M.P.).

....Respondents

(By Advocate: Shri Madhav Panikar)

O R D E R (ORAL)

By Hon'ble Shri S.R.Adive, Vice Chairman (A):

Applicant impugns respondents order dated 27.4.1993 imposing a penalty of 40% cut in his pension for five years.

2. Applicant was proceeded against departmentally, on the charge that while functioning as <sup>Permanent</sup> ~~Resort~~ UDC in 505 Army Base Workshop Delhi Cantt he committed gross misconduct, and also offences involving dishonesty as he was running bogus travel agencies and was issuing false bus tickets/cash receipts for preferring LTC claims by employees in the said Army Base Workshop.

3. Applicant had earlier filed an O.A. 2120/89 impugning memo dated 14.08.1988 whereby respondents had initiated departmental action against him with respect to the aforesaid

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charges, which was dismissed <sup>at</sup> on the admission stage itself by order dated 15.12.1989, on the ground that the O.A. was premature as applicant had approached the Tribunal without exhausting remedies available to him under the relevant Service Rules.

4. Thereafter, applicant, who in the meantime had retired on superannuation from service, filed OA 2746/90 and CCP 90/90 challenging the departmental proceedings, and also for a direction that the respondents had not complied with the Tribunal's directions given in OA 2120/89, <sup>on</sup> 15.12.1989. OA No. 2746/90 and CCP 90/90 were disposed of after hearing both parties by order dated 24.1.1992 remitting the case to the disciplinary authority to complete the enquiry, in the light of the observations contained in the order and provisions under CCS(CCA) Rules, 1955 from the stage it was discontinued earlier.

5. In particular, it was noticed in the aforesaid order that a copy of the preliminary enquiry report had not been furnished to the applicant, and it is on account of this infirmity that the matter had been remitted back to the disciplinary authority.

6. On receipt of the aforesaid order dated 24.1.1992, the respondents by their order dated 30.7.1992 furnished a copy of the preliminary enquiry report to the applicant and commenced further oral enquiry, as is clear from their order of even date (Annexure R-VIII). On the basis of the further enquiry, the inquiry officer in his report dated 25.01.1993 concluded that the charge was proved, inasmuch as the applicant was running bogus travel agencies and was issuing false bus tickets/cash receipts for preferring L.T.C. claims by employees of 505 Army Base Workshop, Delhi Cantt and thus <sup>was</sup> found guilty of gross misconduct and offences involving dishonesty.

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7. Upon receipt of inquiry officer's report, applicant was furnished with a copy of the same vide order dated 19.2.93 to enable him to submit his representation, if any. Thereupon the respondents vide order dated 27.4.1993 imposed the impugned punishment of 40% cut in pension for a period of five years with immediate effect against which this O.A. has been filed.

8. None appeared for the applicant when the case was called out. Shri Madhav Panikar appears for the respondents and has been heard.

9. As this is a 1993 case, we are proceeding to dispose it off after hearing the case and perusing material on record.

10. Applicant had filed a representation on 28.4.1999 stating that on 21.4.1999 he met with an accident, but after that date, the case came up on 2.6.1999 on which date applicant didn't appear and the case was directed to be listed on 8.7.1999 on which date also the applicant was absent. Under the circumstances we do not propose to delay disposal of this case any longer.

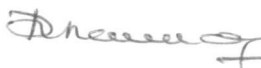
11- The main grounds taken by applicant in the O.A. are not different from those taken in OA No. 2746<sup>n/90</sup> which have been ~~mentioned~~ <sup>summarised</sup> in para 9 of the Tribunal's order dated 24.1.1992, namely, (i) that the enquiry against the applicant was initiated out of mala fide intentions; (ii) that the charge-sheet was given by an incompetent authority; (iii) that the charges are vague; and (iv) that there had been inordinate delay which has vitiated the entire proceedings. None of these grounds were upheld by the Tribunal in the aforesaid order dated 24.1.1992 and no good reasons have been furnished by applicant in his pleading in the present O.A., for us to take a different view.


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12. In the present O.A. some additional grounds have also been taken by the applicant, namely, that partial action was taken on the C.B.I. note and partial action was taken on the findings of Col. Ghosh's enquiry. It has also been contended that the main points raised by the applicant were not considered by the Lt. Col. P.V. Kumar enquiry. Applicant has not been able to establish successfully that these grounds have in any way vitiated the findings in the departmental enquiry. It has also been contended that no show cause notice was issued before imposing penalty and prior to issue of the chargesheet, but the relevant rules & instructions do not contemplate the issue of a show cause notice before the imposition of penalty or prior to issue of the chargesheet. As the applicant had retired and impugned order is a Presidential order, the question of filing of an appeal against that order does not arise.

13. In the absence of any legal infirmity in the conduct of the departmental enquiry, we find no good reasons to interfere in the matter and the O.A. is accordingly dismissed. No costs.

  
(P.C.KANNAN)  
MEMBER (J)

  
( S.R.ADIGE )  
VICE-CHAIRMAN (A)

/Naresh/