

Central Administrative Tribunal
Principal Bench

O.A. No. 1834 of 1993

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1 New Delhi, dated this the 6 April, 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mr. T.N. Bhat, Member (J)

Shri Het Ram Singh Badwal,
S/o Shri Dauji Ram,
Ex-Peon,
R/o Bazar Gate, Babugarh Cantt.,
Hapur,
Dist. Ghaziabad (U.P.). ... Applicant

(By Advocate: Shri S.S. Tiwari)

Versus

1. Union of India through
Secretary,
Ministry of Defence, South Block,
New Delhi.
2. Director General,
Remount Veterinary Services, West Block 3
R.K. Puram, New Delhi.
3. Quarter Master General Branch,
Army Headquarters,
DHQ Post Office,
New Delhi. ... Respondents

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

O R D E R

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns the disciplinary authority's order dated 10.10.84 (Ann. A) and the Revisional Authority's order dated 6.5.92 (Ann. A Page 22 of the O.A.) and seeks reinstatement with all consequential benefits.

2. Applicant was proceeded against departmentally on the charge that

(i) in his letter dated 2.4.80 on the pad of the Civilian Defence Karamchari Union addressed to Brig. Tej Singh, Director RVC, New Delhi with copies to others he made false and baseless allegations that Col. Parthasarathi;

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Dy. Commandant Lt. Col. Kacker and snatched Rs.700/- ; the amount collected from the Members of the Union as subscription, the pay of Syce Trilok Chand for March, 1980, and the receipt books of subscription from Syce Trilok Chand and further made false allegations that they had abused and threatened to kill him.

(ii) On 1.4.80 at about 3 p.m. while the pay for the month of March, 1980 was being distributed in front of the main office applicant along with Syce Trilok Chand was collecting subscription on account of Union membership when Lt. Col. Kacker asked them to stop doing so inside the unit premises, applicant showed insubordination and threatened him saying "**AAP MUJHE ROKANE VALE KAUN HOTE HAIN. IKSKA NATIJA AAPKO BAHUT BURA BHUGATNA PAREGA**" or words to that effect.

3. The E.O. in his report found applicant guilty on both counts. Agreeing with those findings the Disciplinary Authority imposed the penalty of dismissal vide impugned order dated 10.10.84 which was upheld in appeal vide impugned order dated 13.8.85 and also in revision vide order dated 6.5.92.

4. We have heard applicant's counsel Shri S.S.Tiwari and respondents' counsel Shri V.S.R.Krishna.

5. The first ground urged by Shri Tiwari was that applicant had already been warned for the misconduct alleged in Part (II) of the charge and hence punishing him for the same alleged misconduct amounted to double jeopardy. Apart from the fact that this ground has not been specifically taken in Para 5 of the O.A., and without going into the

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question whether the principle of double jeopardy would be applicable in departmental proceedings as distinct from criminal proceedings, a warning is not a recognised penalty under Rule 11 CCS (CCA) Rules, and hence this ground fails.

6. The second ground taken by Shri Tiwari, which has also not been specifically taken in Para 5 of the O.A. was that prosecution witnesses were recalled for examination without adequate notice to applicant. It has not been established as to what prejudice was caused to applicant upon recall of the prosecution witnesses, when ^{despite adequate opportunity} he himself declined to cross examine them.

7. The grounds taken in Para 5 of the O.A. relate either to reappreciation of evidence, which lies outside the Tribunal's writ jurisdiction, or to bias alleged on the part of respondents, which has not been substantiated by the materials on record.

8. Shri Tiwari has relied upon the rulings in Chandra Bhan's case 1991(2) ATJ 596 and 1991 (1) ATJ 368, but in the facts and circumstances noticed above, and upon perusal of those rulings it is clear that neither of them advance applicant's case.

9. In UOI & Ors. Vs. Upendra Singh (1994) 27 ATC 200 the Hon'ble Supreme Court has applied the following principle contained in their decision in

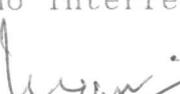
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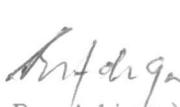
H.B. Gandhi, Excise & Taxation Officer-cum
Assessing Authority, Karnal Vs. Gopinath & Sons
1992 Supp. (2) SCC 312.

"Judicial review, it is trite, is not directed against the decision but is confined to the decision-making process. Judicial review cannot extend to the examination of the correctness or reasonableness of a decision as a matter of fact. The purpose of judicial review is to ensure that the individual receives fair treatment and not to ensure that the authority after according fair treatment reaches, on a matter which it is authorised by law to decide, a conclusion which is correct in the eyes of the Court. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It will be erroneous to think that the Court sits in judgment not only on the correctness of the decision making process but also on the correctness of the decision itself."

10. In the instant case a perusal of the impugned order clearly shows that applicant cannot legitimately complain of not receiving fair treatment.

11. Under the circumstances the O.A. warrants no interference. It is dismissed. No costs.


(T.N. Bhat)
Member (J)


(S.R. Adige)
Vice Chairman (A)

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