

## CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.189/93New Delhi: this the 29<sup>th</sup> day of July, 1999.

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

HON'BLE MR.P.C.KANNAN, MEMBER (J)

Mahab al Ram,  
 S/o Shri Dukhloo Ram,  
 R/o 31-B, DDA Flats (MIG),  
 Rajouri Garden,  
 New Delhi, ..... Applicant.

(By Advocate: Shri G.D.Gupta)

Versus

1. Union of India  
 through the Secretary,  
 Dep'tt. of Agriculture &  
 Research Education: &  
 Director General,  
 Indian Council of Agricultural Research,  
 Krishi Bhawan,  
 New Delhi .
2. The President,  
 Indian Council of Agricultural Research,  
 Govt. of India,  
 Krishi Bhawan,  
 New Delhi.
3. The Director,  
 Indian Agricultural Research Institute (IARI),  
 Pusa ,  
 New Delhi -110012 ..... Respondents

(By Advocate: Ms. Geetanjali)

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

Applicant impugns respondents' order dated 30.6.91 (Annexure-A) and seeks restoration of his emoluments to its original position with interest @ 18% p.a. plus costs.

2. Applicant was proceeded against departmentally vide charge sheet dated 7.5.87 (Annexure-F) which contained 7 Articles of Charge. The Inquiry Officer in

his report dated 21.3.90 (Annexure-I) held Article of Charge 1 as partly proved; Articles of Charge 3 and 4 as proved and Articles of Charges 2, 5, 6 and 7 as not proved. A copy of the Inquiry Officer's report was furnished to applicant vide Memo dated 25.4.90 for representation, if any. Applicant submitted his representation on 4.6.90. The Disciplinary Authority after considering the records of the case and the Inquiry Officer's report agreed with the Inquiry Officer's finding that Articles of Charge 3 and 4 were proved. He accordingly issued impugned order dated 30.6.91 imposing the minor penalty of reduction of pay by one stage from Rs.5900 to Rs.5700/- in the time scale of Rs.4500-7300 for a period of 3 years without cumulative effect w.e.f. 1.6.91 would earn increments and on the expiry of the period, the reduction would not have the effect of postponing future increments.

3. It is against the aforesaid order dated 30.6.91 that this OA has been filed.

4. We have heard Shri G.D.Gupta for applicant and Ms. G.Cool for respondents. Shri Gupta has also filed written submissions which are taken on record.

5. As regards Article of Charge 3 which relates to utilisation of a Govt. vehicle to attend a marriage ceremony at Rohtak without obtaining approval of competent authority and without making entries of the same in the vehicle log book, Shri Gupta has asserted that all the witnesses who deposed against applicant had been held by the

Inquiry Officer to be prejudiced against applicant or his enemy while discussing Articles of charges 5 and 7, and hence this was a case of no evidence. Furthermore he contended that neither the driver of the vehicle was produced as a witness, nor was the log book produced despite the orders of the Inquiry Officer.

6. In so far as the non-production of vehicle driver is concerned, if respondents did not consider it necessary to summon him as a PW, it was open to applicant to have produced him as DW. There is no averment in the OA that applicant made such efforts to do so or that despite his request to the Inquiry Officer to summon him as witness on his behalf such a prayer was declined. Similarly there is no averment in the OA that despite applicant's prayer before the IO for production of the vehicle log book in his defence, the prayer was declined. Hence this contention fails.

7. As regards the assertion that the finding on charge 3 is a case of no evidence, on the ground that the witnesses who deposed against the applicant in regard to this charge were inimically disposed towards him, we must make it clear that we are not a Court of Appeal and it lies beyond the ambit of our writ jurisdiction to weigh the evidentiary value of the witnesses who deposed against the applicant vis-a-vis those who deposed in his favour. We note that I.O. in his finding in regard to Article of Charge 3 has noted the animosity and hostility of all the witnesses towards the applicant during the course of enquiry, but after

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weighing both sides' evidence, which included the evidence in favour of applicant as well as evidence against him in respect of this particular charge, he has concluded on the basis of preponderance of probability that this charge is established. We in exercise of our writ jurisdiction cannot reapp reciate the evidence.

8. In so far as Article of Charge 4 is concerned, here also it is argued that this is a case of no evidence as the witnesses in regard to that charge also were applicant's enemies and were prejudiced against him. It is also contended that the order dated 15.7.86 (Exhibit-6) at page 361 of the OA is a sanction of casual labourers for the months of July, August and September, 1986, whereas payment of wages were made to the casual labourers for the months of May and June, 1986 in the earlier sanction, and in applicant's defence it is contended that after it was pointed out to him that two casual labourers employed by the Labour Officer in the Project during May and June, 1986 were under age, applicant had ordered payment of only 80% of the adult wages to them as per rules.

9. The charge against the applicant is that he has committed irregularities in the engagement of daily wage employees in disregard of instructions on the subject. In this connection the instructions relating to the employment of casual labourers included the stipulation that candidate must come through the Employment Exchange and at the time of employment he/she should be within the age limit of 18-25 years. If indeed two of the casual labourers engaged were

under age, it is clear that their engagement was in violation of relevant instructions. The Inquiry Officer concluded that such irregularities could not have taken place without applicant's involvement. Such a conclusion was based on the appreciation of evidence and as we are not an appellate authority it is not open to us in our writ jurisdiction to reappreciate the evidence.

10. Shri Gupta relied upon certain rulings viz. Union of India Vs. H.C. Goel, AIR 1964 SC 364 on the point that if there is no evidence, then the finding of guilt is liable to be set aside. As this case cannot be said to be a case of no evidence, the aforesaid ruling does not help the applicant. Similarly he has relied upon on Committee of Management Vs. Shambhu Saran Pandey, 1995(1) SCC 404 ; Jagdish Prasad Saxena Vs. State of Madhya Bharat, AIR 1961 SC 1070 which lay down that non-supply of documents vitiates the enquiry but applicant has not been able to establish that despite his prayer to IO to summon the vehicle log book, the same was rejected by him.

11. In the result, this OA warrants no interference and is dismissed. No costs.

P.C.KANNAN  
( P.C.KANNAN )  
MEMBER(J)

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