

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1068/93

DECIDED ON : 17.05.1993

J. D. GUPTA

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APPLICANT

VS.

UNION OF INDIA & ORS.

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RESPONDENTS

CORAM :

THE HON'BLE MR. J. P. SHARMA, MEMBER (J)
THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

Shri S. C. Jain, Counsel for the Applicant

J U D G M E N T (ORAL)

The applicant has assailed memorandum dated 23.3.1993 (Annexure A-1) on the ground that the applicant was earlier served with a memorandum of chargesheet dated 4.5.1992. The applicant has since superannuated on 31.3.1993. Before he was superannuated, on 23.3.1993 he was served with a fresh memo of chargesheet dated 23.3.1993. The applicant has relied on 1987 SLJ CAT 40 : R. V. Parmar vs. Union of India and 1990 (17) ATC 868. The learned counsel argued that issuance of the second chargesheet is illegal, ultra vires and the respondents cannot proceed with the trial in the disciplinary proceedings against the applicant. The contention of the learned counsel for the applicant is that a second chargesheet cannot be issued on the same accusations as has been levelled in an earlier chargesheet served on the delinquent. The contention of the learned counsel is also that the

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applicant has disclosed his defence and that the matter was inquired into by the Commissioner for Departmental Enquiries. It is also contended that the applicant came before the Tribunal earlier but without success.

2. We have heard the learned counsel for the applicant and have perused the documents annexed to the OA. What appears from the records is that by the memo dated 22.3.1993 the Director General (Works), CPWD, has cancelled the earlier memo of charges served on the applicant on 4.5.1992 observing that the same was signed by the Chief Engineer (Vig.) and there was a technical ^{lacuna} ~~lacuna~~ in the said memorandum not having been signed by the disciplinary authority specified in the Schedule to the CCS (CCA) Rules, 1965.

3. In view of the above, we do not find that the accusations levelled against the applicant have been materially modified or ^{varied} ~~vary~~ in the subsequent chargesheet from that of the earlier chargesheet served on the applicant on 4.5.1992. The authorities cited by the learned counsel for the applicant do not show that in those cases the earlier memo of charges was signed by a person other than the disciplinary authority while in the present case the subsequent chargesheet has been issued only removing the lacuna which is technical in nature by getting the chargesheet signed by the disciplinary authority mentioned in the Schedule-IV to


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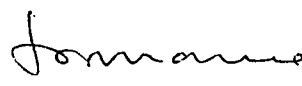
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the CCS (CCA) Rules, 1965. This, therefore, does not give any ground for interference in the conduct of the disciplinary proceedings by the respondents against the applicant.

4. In the course of the order being dictated, the learned counsel for the applicant also argued that he has averred in the OA in para VI at page 7 that Rule 9 (2) of the CCS (CCA) Rules, 1972 is ultra vires of Art. 14 and 16 of the Constitution. However, in the relief prayed for in para VIII at page 9 of the OA no such relief has been claimed by the applicant. In view of this, the contention of the learned counsel cannot be upheld.

5. The learned counsel for the applicant now prays to get the OA amended. We think it should be the misuse of the process of law. The O.A. is accordingly dismissed. However, the applicant shall be free to approach the Tribunal with all such grounds available to him after the conclusion of the disciplinary proceedings against him.


(S. R. Adige)
Member (A)


(J. P. Sharma) 17.5.93
Member (J)

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