

RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

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Allahabad: Dated this 21st day of August, 1998

Original Application No.809 of 1996

District : Shahjahanpur

CORAM:-

Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. S.K. Agrawal, J.M.

Bachchu Lal Son of Narain Lal,
R/o Avas Vikas Colony,
350, Mahmand Jalal Nagar,
Shahjahanpur.

(Sri K.C. Saxena, Advocate)

. Applicant

versus

1. Union of India through Secretary,
Ministry of Defence New Delhi.
2. General Manager,
OCF Shahjahanpur.
3. Sri A.K. Singh, Labour Officer,
OCF Shahjahanpur.

(Sri Ashok Mohiley, Advocate)

. Respondents

O R D E R

By Hon'ble Mr. S.K. Agrawal, J.M.

In this OA under section 19 of Administrative
Tribunals Act, 1985, the prayer of the applicant has
been that :-

- (i) the suspension order which has been passed against
the applicant may be cancelled and the applicant may
be order to continue in service.
- (ii) The charge sheet dated 6-9-1996 filed at Annexure-
CA-8 be quashed.
2. In brief, the facts of the case as stated by
the applicant are that the applicant was punished
by the General Manager O.C.F. Shahjahanpur by way
of punishment of withholding one increment. The
order was set aside by the Tribunal in TA No.117(T)86.

Baahchulal Versus Union of India, after hearing both the sides but the Labour Officer Respondent no.3 is constantly harassing the applicant by passing orders against the applicant. He refused to sanction casual leave to the applicant on 10-7-1996 and also stopped overtime to the applicant because respondent no.3, the Labour Officer wanted to have undue advantage through the applicant, which the applicant refused. It is submitted that the Labour Officer has tried to harass the applicant and even he went to this extent by encouraging Nasir Ahmad to beat and teach a lesson to the applicant. Therefore, The applicant being afraid for his life gave the application to the S.P. Shahjahanpur on 18-7-1996, The Labour Officer with a view to harass the applicant filed a false complaint against the applicant on vague allegations and supporting the Labour Officer, the General Manager has passed the order of suspension against the applicant on 19-6-1996 and thereafter charge-sheet was issued to the applicant. It is submitted that the authority who had issued the charge-sheet was not competent authority and, therefore, the initiation of disciplinary proceedings against the applicant is bad in law and the same is liable to be quashed. Therefore, by this OA the applicant has prayed to quash the order of suspension as well as to quash the charge sheet dated 6-9-1996 issued against the applicant. CA was filed by the respondent. In the CA it is stated that the applicant was suspended vide order dated 19-7-1996. and charge sheet was issued to him under Rule 14 of CCS(CCA) Rules, 1965 vide Memo dated 6-9-1996. It is submitted that the order of suspension of the petitioner was perfectly justified. The petitioner misbehaved with Mr. AK Singh,

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the Labour Welfare Officer and tried to hit him with iron rod. He also snatched the Absentee Report and Despatch Book from the hands of Shri Jageshwar Dayal, Peon, and started abusing Mr. AK Singh. In view of the aforesaid misconduct, the applicant was rightly suspended and charge sheet was rightly issued to him vide Memo dated 6-9-1996. It is also submitted that the chargesheet was issued on the basis of the statement of witnesses who were present at the time of incident. Therefore, the allegations of malafides and bias as alleged by the applicant are wrong and false and denied. It is also stated here that leave was not sanctioned because the applicant totally ignored his Divisional Officer i.e. the Labour Welfare Officer, who is leave sanctioning authority, and the Labour Welfare Officer never refused him rest in lieu of extra duties and all the allegations against respondent no.3 are totally false and concocted. In this manner on the basis of the averments made in the CA, the respondents have requested to dismiss this OA with costs.

3. RA has also been filed by the applicant reiterating the facts mentioned in the OA.

4. Heard learned counsel for the applicant and perused the whole record.

5. Admittedly, the suspension of the applicant was revoked by the respondents w.e.f. 8-1-1998 and the applicant has reported on duty after the revocation of suspension. Therefore, the first prayer of the applicant to quash the order of suspension has become infructuous.

6. Regarding other prayer to quash the charge sheet

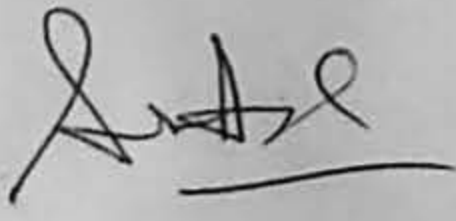
dated 6-9-1996, the applicant has submitted :-

- (a) The charge sheet has not been issued by the competent authority.
- (b) The charge sheet has been issued with malafide of respondent no.3 who has persuaded the General Manager to suspend the applicant and to chargesheet him with a view to harass the applicant.

7. As regards the first contention of the applicant is concerned, the learned lawyer for the respondents has referred to the following cases :-

- (1) State of M.P. Vs. Shardul Singh.
- (2) P.V. Srinivasa Sastry Vs. Controller & Auditor General and
- (3) Inspector General of Police Vs. Thavasiappan.

and submitted that the charge sheet was issued by the competent authority and on this ground the charge sheet cannot be quashed. In Steel Authority of India and another Vs. Dr. R.K. Dwaker & Others, S.L.J.1998(1) S.C. Page 57, it was held that the controlling officer can always issue charge sheet even if powers are not specifically delegated to him. In this case the Hon'ble Supreme Court has referred the case of Director General E.I.S. Vs T. Abdul Razak, 1996 (4) SSC 708 and held that it is not necessary that the authority competent to impose penalty himself initiate disciplinary proceedings. The disciplinary proceedings can be initiated by any superior authority who can be held to be the controlling authority but may be an officer subordinate to the appointing authority. In the instant case, looking to the facts and circumstances of the case in hand, we are of the considered opinion that there is no ground to quash the charge sheet on this ground that the charge sheet was not issued by the competent authority.



7. On the perusal of the pleadings it also appears that the Labour Welfare Officer submitted a report dated 17-7-1996 against the applicant regarding his misbehaviour which was supported by the statement of witnesses ^{and} on the basis of this the applicant was charge sheeted for his misconduct and misbehaviour with Dr. R.K. Singh, the Labour Welfare Officer on 17-7-1996.

8. Following are the article of charges framed against the applicant:-

(a) Article of Charge-I.

Gross-misconduct in that Shri Bacchoo Lal, O.S. Grade II P.C. No. 938 Labour Welfare Officer, CCFS while functioning as such on 17-7-96 reported late at about 2.40 P.M. after scheduled lunch time.

(b) Article of Charge II.

Gross-Misconduct in that Shri Bacchoo Lal, O.S. Gr. II P.C. No. 838 Labour Welfare Office, CCFS while functioning as such on 17-7-96 at about 2.40 P.M. snatched the official documents thus created hindrance in Govt. work.

(c) Article of Charge-III.

Gross-Misconduct in that Shri Bacchoo Lal, O.S. Gr. II P.C. No. 838 Labour Welfare Office, CCFS while functioning as such on 17-7-96 at about 2.40 P.M. abused Dr. A.K. Singh, L.O. and staff of Labour Welfare Office and also tried to hit the Labour Officer with an Iron Rod.

Shri Bacchoo Lal, O.S. Gr. II by his above acts exhibited conduct unbecoming of a Govt. servant thereby violating Rule 3(1) (iii) of the CCS (Conduct) Rules 1964."

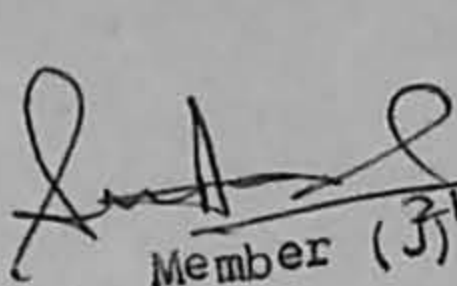
8. These charges are specific and not at all vague and at this stage it cannot be accepted that this charge sheet was issued at the instance/persuasion of Dr. A.K. Singh. Therefore, there is no subsistence in the contentions of the learned lawyer for the applicant. It is not the case of the applicant that because of the undue delay on the part of the respondent, the inquiry could not be concluded so far.

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9. Therefore, on the basis of the facts and circumstances of this case, we can firmly say that there is no basis to quash the charge sheet dated 6-9-1996.

10. Therefore, this OA is dismissed with no order as to costs. However, respondents are directed to conclude the inquiry against the applicant as early as possible.


Member (A)

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