

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

C. C. A./Review, M.A. No.

In

O. A. No. / I. A. No. 867/97

Date of decision 14.12.02

Govt. Pwada.

Applicant(s)

Sd/- B.N. Singh  
L.M. Singh

Counsel for the  
Applicant(s)

Versus

U.O.I. Bhatnagar

Respondent/Upp.  
Party

C/A Shri A. Shalekhar

Counsel for the  
Respondents/Upp.  
Party

CURAM

Hon'ble Mr. Gen K.K. Srivastava V.C./Member (A)

Hon'ble Mr. A.K. Bhatnagar Member (J)

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether their Lordship wise to see the fair copy of the judgment?
4. Whether to be circulated to all Benches ?

No

( Signature )

/M.M./

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 867 of 1997

Allahabad this the 11<sup>th</sup> day of October, 2002

Hon'ble Maj Gen K.K. Srivastava, Member (A)  
Hon'ble Mr. A.K. Bhatnagar, Member (J)

Gomti Prasad, Ex.LDC/CTR, House No.B-63, Sanjay Nagar, P.O. Udyog Nagar, Govind Nagar, Kanpur-208022.

Applicant

By Advocates Shri B.N. Singh  
Shri L.M. Singh

Versus

1. Union of India through the Director General, Ordnance Factories, 10-A, S.K. Basu Road, Calcutta-700001.
2. The Senior General Manager, Ordnance Factory, Kalpi Road, Kanpur.

Respondents

By Advocate Shri Amit Sthalekar

O R D E R

By Hon'ble Mr.A.K. Bhatnagar, Member (J)

The applicant has challenged his dismissal order of 15.7.1995 passed by respondent No.2. The applicant was charged of 'gross' misconduct, in that he, in <sup>the</sup> ~~com~~ <sup>the</sup> ~~mis~~ <sup>the</sup> ~~v~~ <sup>the</sup> ~~en~~ <sup>the</sup> ~~ce~~ with three others falsely identified <sup>the</sup> ~~some~~ <sup>the</sup> ~~persons~~, resulting in fake payment of L.T.C.

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advance in names of six such falsely named persons resulting in defalcation of govt. money to the tune of Rs.42,250/- . He was found guilty in the departmental enquiry and therefore dismissed. The applicant has challenged the dismissal on three grounds, namely :-

- (1) The dismissal order was passed by respondent No.2 whereas the competent authority was respondent No.1.
- (2) The applicant was not given an opportunity to cross examine the private hand writing expert, who should not have been engaged in the first place in preference to a govt. expert, and thus the applicant's signatures in confirmation of the false identification can not be provided, and
- (3) The practice of identification by other officials was sought to be done away with by defence Ordnance Board's letter of 23.2.1989 and to be replaced by identification only by photo identity cards and therefore he had been falsely framed, because the so called identification by him was allegedly made after 23.2.89.

2. The respondents, in the counter affidavit have shown that the power of respondent No.1 had been delegated to respondent No.2 and hence the <sup>h</sup> ~~latter~~ <sup>h</sup> was duly authorised and competent to pass the dismissal order. Agreeing with this, we feel that applicant's argument no.1 does not merit even a second thought. The ground no.3 mentioned above is dealt with, first - Although the practise of personal identification was sought to be replaced by identification on the basis of a photo identity card, it has been averred and also proved in the departmental enquiry that the old system continued to operate at the time of taking payment. It is important to see what really happened and not what ought to have happened. We therefore conclude that the practice of personal <sup>fake</sup> identification was used even while making the <sup>h</sup> payment in this case despite instructions to the contrary.

3. The only argument of the <sup>h</sup> ~~the~~ <sup>learned counsel for the</sup> applicant which apparently has some force is that the <sup>h</sup> ~~the~~ <sup>applicant</sup> was not given

an opportunity to cross examine the handwriting expert who is supposed to have confirmed that the signatures on the personal identification certificate were indeed those of the applicant. It is also a weakness in the case against the applicant that a private handwriting expert was engaged in preference to a public(govt.appointed) expert. In view of these infirmities the evidence of the hand writing expert cannot be wholly relied upon. But the most important factor in the present case is that the evidence of the hand writing expert is only of corroborative in nature. There is direct evidence of Shri K.L. Verma the then Cashier, who during examination-in-chief as a prosecution witness, confirmed that the payment against the said bills was made as personal identification of the payees by the applicant, Shri Gombi Prasad. The applicant did not cross examine Shri K.L. Verma on the false and untenable pretext that he should have been first given copies of the original document relating to the L.T.C. claims etc. Those copies were not furnished firstly because they were not material to the case, in that they were not cited as prosecution witness and secondly because such documents did not in fact, exist as the claims were falsified. The point in issue was whether certain fake payments were, caused to be made due to wilful false identification by the applicant not what were the L.T.C. claims and when were they made etc. The facts sought to be shown by the documents demanded, by the applicant and which did not exist. By not cross examining or over casting even a shadow of doubt on the examination-in-chief, of Shri K.L. Verma the applicant has directly admitted the charge made against him as being true. It has

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been unimpeachably proved by oral evidence that(a) fake payments against non existent claims were made, as Shri Indra Prakash, Guru Prasad and S.N.Pandey proved in their oral evidence that they neither made those claims nor received them, (b) That Shri Verma Cashier identified the applicant as the official who made the false identifications, on the basis of which false payments were made.

4. Therefore, we come to the conclusion that even if the evidence of the <sup>private</sup> ~~present~~ hand writing expert cannot be totally relied upon, even in the absence of such proof, based on unchallenged oral evidence of the person who personally witnessed such wrongful identification by the applicant, It will be wholly correct to justify <sup>the</sup> ~~the~~ holding of the applicant as guilty of the charges levelled against him.

5. Learned counsel for the applicant has relied on the Judgments in Balkrishna Das Agarwal Vs. Smt.Radha Devi and Others A.I.R. 1989 Allahabad 133 and N. V. Sivanandan Vs.Superintendent of Post Offices, Irinjalakuda and 3 others (1991)15 A.T.C.362. These Judgments do not help the applicant because on perusal it is clear that the facts of these cited cases are different to the present case.

6. In the circumstances mentioned above, we find that the dismissal order of the applicant(impugned order) is wholly justified and legal. The O.A. is accordingly dismissed. No order as to costs.

/M.M./

  
Member (J)

  
Member (A)