

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 10TH DAY OF AUGUST, 2000

Original Application no.260 of 1998

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.DAYAL, MEMBER(A)

G.S.Budwal, aged about 57 years,  
Son of Sri Piyara Singh, presently  
posted as Deputy Assistant Director,  
Military Farm, Meerut.

.... Applicant

(By Adv: Shri Sudhir Agrawal)

Versus

1. The Union of India through the Secretary  
Ministry of Defence, New Delhi.
2. Quarter Master General, Army  
Head Quarter, QMG's branch,  
Defence Headquarter, P.O.  
New Delhi.
3. The Dy.Director General  
military Farms, QMG Branch  
Army headquarter, West Block-3,  
R.K.Puram, New Delhi.
4. The Director, military Farm and  
Frieswal Project, Meerut Cantt.

.... Respondents

(By Adv: Km.Sadhna Srivastava)

O R D E R(Oral)

(By Hon.Mr.Justice R.R.K.Trivedi, V.C.)

This application has been filed for quashing the memo of  
charge dated 4.11.1996 and all other proceedings taken in  
consequence thereof. The applicant has also challenged the  
orders dated 5.2.98 and 4.12.97.

The list of the charge levelled against the applicant  
has mentioned as (Annexure 1) is as under:-

STATEMENT OF ARTICLE OF CHARGE ALLEGED AGAINST SHRI GS  
BUDWAL, DADMF, THE THEN OFFICER INCHARGE MIL.FARM

Shri G.S.Budwal, DADMF while functioning as Officer

Incharge, military Farm, Lucknow during the year 1993 failed to safeguard Govt. interest by resorting to barani cultivation at Mil Farm Lucknow desspite non-availability of adequate water arrangement and did not take proper care for protection of crop from blue bulls in accordance with para 361, Chapter XVI of Circle Standing Order Military Farms(Land) resulting in loss of 25 Hectares Arhar Crop amounting to Rs.17,287/- (Rupees Seventeen thousand two hundred eighty seven only)

By his above act the said Shri G.S.Budwal has exhibited conduct unbecoming of a Govt.servant and deriliction of duty which is violative of Rule 3(l)(ii) &(iii) of the CCS(Conduct Rules),1964.

Learned counsel for the applicant challenged the aforesaid memo of charge on the ground that earlier enquiries were held and the applicant was not found responsible for the loss of Arhar crop and the report was accepted by the Military headquarter. It has also been submitted that enquiries were initiated against the Quarter Master Colonel V.S.Varma but the enquiry was ultimately dropped and ultimately in 1996 disciplinary proceedings were initiated against the applicant <sup>and</sup> when his chances were bright <sup>for the</sup> promotion. Learned counsel for the applicant placed reliance in Union of India and Ors Vs J.Ahmed,AIR 1979 SC 1022 in support of his submissions.

We have carefully considered the submissions of the learned counsel for the applicant and have also perused the record. There is no dispute about the principle that for quashing a memo of charge the court has to look into the memo of charge itself and then has to ascertain whether a misconduct is disclosed or not. At this stage we cannot enter into the defence available to the applicant as that is

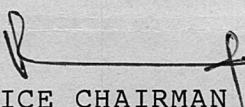
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a subject matter of the enquiry. We have perused the charge mentioned above and in our opinion, it is not a fit case for interference by this court at this stage. The misconduct and its degree as to whether it is culpable or not is a question of fact and determination of which is dependent on the evidence adduced by the parties before the Enquiry officer. It is difficult to ascertain at this stage whether misconduct levelled against the applicant was of the nature that he cannot be punished under the CCS Conduct Rules, 1964.

Shri Sudhir Agrawal, however, submitted that if the enquiry against the applicant on the basis of impugned memo of charge is continued for a long time, he shall be deprived of the chance of promotion and suffer irreparable loss to his career. To avoid this apprehension and for the reason that the memo of charge was served in 1996, we direct that the enquiry against the applicant on the basis of the memo of charge shall be concluded within a period of four months from the date a copy of this order is filed before the disciplinary authority. The interim order is vacated.

There will be no order as to costs.

  
MEMBER (A)

  
VICE CHAIRMAN

Dated: 10th August, 2000

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