

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

Original Application No.1333 of 2004

Allahabad this the 13th day of December 2004

Hon'ble Mr. Justice S.R. Singh, V.C.

Hon'ble Mrs. Roli Srivastava, A.M.

Dr. R.S. Shrivastava S/o Sri R.A.L. Srivastava
Senior Scientist, CIFRI 24 Pannalal Road,
Allahabad R/o Village and P.O. Gaura Beni
District Azamgarh.

.....Applicant.

(By Advocate : Sri B. Prasad/
Sri S.S. Tripathi)

Versus.

Union of India through President, Indian Council of
Agricultural Research, New Delhi.

.....Respondents.

(By Advocate : Sri N.P. Singh)

O R D E R

(By Hon'ble Mr. Justice S.R. Singh, V.C.)

The applicant herein was issued a charge memo dated 30.6.2003 in which the charge levelled against him was that while working as Senior Scientist at Central Inland Fisheries Research Institute, Barrackpore, he visited Humboldt University of Berlin, Germany from 11.08.2000 to 19.8.2000 "without prior permission of the Competent Authority." which conduct of the applicant exhibited lack of devotion to duty and he acted in a manner which was unbecoming on the part of Council's employee and thereby he violated the provisions of Rule 3(1)(ii) and (iii) of the CCS(Conduct) Rules 1964 as extended to ICAR employees. By order dated 4.8.2004(Ann.2) the Disciplinary Authority in exercise of power conferred

by Sub Rule (2) of Rule 14 of the CCS(CCA) Rules, 1965 has appointed Dr. R.A.Gupta, Principal Scientist & Vigilance Officer, CICFRI, Barrackpore as Enquiry Officer to enquire into the charges framed against the applicant and by notice dated 06.10.2004, the applicant was informed that the hearing in connection with the case of enquiry which was scheduled to be held on 15.10.2004 would be held on 27.10.2004 in the conference Room, CIFRI, Barrackpore at 1130 hours. The applicant was also asked to intimate the name of his Defence Assistant.

2. The charge memo dated 30.6.2003, order dated 04.8.2004 appointing the Enquiry Officer and the notice dated 06.10.2004 intimating the applicant about the date of hearing and asking him to intimate the name of his Defence Assistant are sought to be quashed by this O.A. instituted under section 19 of the Administrative Tribunals Act, 1985.

3. It has been urged by the learned counsel for the applicant that the applicant had earlier instituted an O.A. no.327 of 2004 which was disposed of with the direction to decide the representation preferred by the applicant and since the representation has not yet been decided, the respondents are not competent to proceed with the enquiry. The submission made by the learned counsel for the applicant is untenable. A perusal of the order dated 31.1.2004 passed in O.A.327 of 2004 would indicate that the said O.A. was instituted for quashing of order of Dies-non dated 30.9.2003 and the order dated 31.1.2004 passed by the respondents. The said O.A. had nothing to do with the validity or otherwise of the charge memo.

4. It was then submitted by the learned counsel for the applicant that the charge framed against the applicant was not covered by the Rule 14 of the CCS(CCA) Rules, 1965. Be that as it may it is always open to the applicant to raise this point in his reply to the charge memo. In case such

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an objection is raised by the applicant the same shall be considered at appropriate level. It was also submitted by the learned counsel for the applicant that the charge memo suffered from the vice of mala fide and is, therefore, liable to be quashed on that ground alone. No specific allegation of mala fide has been made in the O.A. and the officer who issued the charge memo has not been impleaded by name.

5. As pointed out herein above the charge framed against the applicant is that he visited Humboldt University of Berlin, Germany from 11.8.2000 to 19.8.2000 without prior permission of the Competent Authority. The O.A. no.327 of 2004 decided on 31.3.2004 was instituted in a different context and had nothing to do with the validity or otherwise of the impugned charge memo. In case the representation which the respondents were directed to decide by order dated 31.3.2004 passed in O.A. no.327 of 2004 has not yet been decided the remedy of the applicant lies elsewhere. The legal principle well settled is that Courts or Tribunals do not interfere with the Disciplinary proceedings at the very threshold of it except where it is found that the charge memo has been issued by incompetent authority or the charge levelled against the delinquent employee is not prima facie sustainable in law. None of these grounds is made out in the instant case. The O.A. being misconceived and is liable to be dismissed.

6. Accordingly, the O.A. fails and the same is dismissed. There shall be no order as to costs.


Member-A


Vice-Chairman