

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/00561/2020

Dated the 19th day of February Two Thousand Twenty One

CORAM : HON'BLE SHRI. S. N. TERDAL, Member (J)
HON'BLE SHRI. C. V. SANKAR, Member (A)

(Through Video Conferencing)

S.Senthilvel,
Technician-Gr.-I,
Department of Tool Room,
CIPET, Chennai 600032.Applicant

By Advocate M/s. C. Saifullah

Vs

1.Disciplinary Authority,
Principal Director & Head,
CIPET : IPT, Department of Chemicals & Petrochemicals,
Ministry of Chemicals & Fertilizers,
Govt. of India, Guindy, Chennai 600032.

2.Inquiry Officer,
Director & Head,
CIPET Centre for Skilling and Technical Support (CSTS),
Thiruvatavur, Govt. of India,
Madurai 625110.

3.Presenting Officer,
Assistant Officer (P & A),
CIPET : IPT,
Department of Chemicals & Petrochemicals,
Ministry of Chemicals & Fertilizers,
Govt. of India, Guindy, Chennai 600032.

4.V.Kiran Kumar,
Defense Assistant,
CIPET Centre for Skilling and Technical Support (CSTS)
Hyderabad Camp.Respondents

By Advocate Mr. M. T. Arunan (R1-R3)

ORDER

(Pronounced by Hon'ble Shri. C. V. Sankar, Member(A))

The reliefs sought for in this OA is as follows:

"i. To provide an opportunity to the applicant to examine the Management Witness, MW-04, Mr. D. Velladurai and also to provide opportunity for the applicant to produce his evidence before the pending departmental proceedings on the file of the 2nd respondents and

ii. Issue any further direction(s) in the interest of justice."

2. The brief facts of the case are as follows:-

The applicant is a Grade – I Technician employed in the Tool Room Department, at CIPET:IPT, Guindy, Chennai. On 17.06.2020, the applicant was assigned a job by the HoD. On 18.06.2020, the HoD issued a Note to the applicant to provide the status of the assigned job and also to submit leave application for the period of his absence during May 2020. The applicant did not submit the leave application to HoD. The HoD sent a compliant to the 1st respondent on 18.06.2020 alleging the non-submission of leave application and some alleged misconduct of the applicant. The applicant sent a reply dated 10.07.2020 to the Senior Administrative Officer regarding the compliant. The applicant was served Memo of charges on 27.07.2020. On 17.09.2020, the applicant appeared for the preliminary hearing. On 29.09.2020, first hearing was held, the applicant was represented by the 4th respondent. On 05.11.2020, second regular hearing was held. The Management side additional document admitted and marked as MD-05 which was a relevant document and related to Article II of the Charge Sheet and also, additional witness namely Mr. D. Velladurai,

Senior Officer (P&A) was presented as Management Witness, MW-4. The 2nd respondent did not provide the opportunity to the applicant to cross-examine the Additional Management Witness and to produce his defence witness and documents and concluded the departmental proceedings. Aggrieved, the applicant has filed this OA.

3. The main contention of the applicant is that a certain document, the leave account of the applicant was presented as an additional document on 29.09.2020 and one Mr. D. Velladurai was presented as Management Witness. On the same date, the Inquiry Officer asked the Defence Assistant who was handling the proceedings on behalf of the Charged Official whether he had any objection in marking the document to which the DA replied in the negative, based on which the document containing two pages was admitted and marked as MD-05. The same has been confirmed vide the daily order sheet dt. 29.09.2020 in which both the Charged Officer and the Defence Assistant have signed. Subsequent sittings were held for the inquiry and the inquiry was completed on 05.11.2020. In the daily order sheet dt. 05.11.2020, it has been noted that the regular hearing of the departmental inquiry is completed in all aspects at 19:30 hrs on 05.11.2020. In the daily order sheet, it was further noted as follows:

“IO advised The Presenting Officer is advised to submit his written brief on or before 20.11.2020 and the Charged Official is advised to submit written defence brief on or before 27.11.2020, failing which the inquiry report will be finalized without considering the Presenting Officer / Charged Officer's written briefs.”

4. This daily order sheet was also signed by the Charged Officer as well as his Defence Assistant. It is also clear from the daily order sheet dt. 17.09.2020

that the Charged Official was specifically asked by the Inquiry Officer whether he wished to introduce additional defence documents to be produced in support of his defence to which the official had answered “No”. To a further question on whether he wants to bring any defence witness to support his defence to which again the applicant answered “No”. The respondents have contended that since the leave record of the applicant was admitted as Management Document-05, which was also accepted by the Charged Official and the Defence Assistant, the Presenting Officer did not have any need to examine the witness Mr. D. Velladurai and, therefore, the relief claimed by the applicant that he was not allowed to cross examine Mr. D. Velladurai did not arise at all as the document was admitted only after necessary perusal by the applicant and his Defence Assistant and there was no examination of the management witness requiring any such cross examination.

5. As we have seen above, the applicant had not demanded to produce any specific additional document or any additional witnesses in support of his case. In fact, even in the deposition of the Defence Assistant on behalf of the Charged Official on 05.11.2020 after the completion of the inquiry proceedings there is no mention relating to his aspect of not having been given the opportunity to cross examine the defence witness Mr. D. Velladurai as can be seen at page 82 of the OA. During the final arguments, learned counsel for the applicant also stated that even though the applicant had submitted his leave application on 08.07.2020, in the charge memo dt. 27.07.2020, Article II had once again

mentioned about non-submission of leave application.

6. We have perused Article II charge very closely and it is seen that the charge relates to the happenings that took place on 17.06.2020 and, therefore, we are unable to accept the contention of the applicant in this regard. From the foregoing, it is obvious that the applicant had been given adequate and full opportunity to defend himself at the inquiry and the relief which he is seeking now was not raised by him or by his Defence Assistant specifically at any time before the conclusion of the inquiry on 05.11.2020.

7. We find no merit in the OA and, therefore, it is dismissed. The respondents are directed to complete the disciplinary proceedings after affording an opportunity to the applicant to submit his written brief after the presentation of such brief by the Presenting Officer. No costs.

(C.V.Sankar)
Member(A)

(S.N.Terdal)
Member(J)

19.02.2021

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