

(A.M.)
(6)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALIA HABAD BENCH

....

Registration O.A. No. 62 of 1988

Janeshwar Prasad Singh Applicant
versus

Union of India and ors..... Respondents

Hon'ble Justice U.C. Srivastava, V.C.

Hon'ble Mr A.B. Gorthi, A.M.

(By Hon'ble Justice U.C. Srivastava, V.C.)

This application under section 19 of the Administrative Tribunals Act 1985, has been filed by the applicant seeking relief against the dismissal order dated 21-11-1986 and for reinstatement in service and to make payment of entire salary.

2. The facts in brief are that the applicant while posted as Storekeeper under the Ministry of Defence, Services, was charge sheeted at Lucknow where he was transferred from Bombay in the month of April, 1975, made a written complaint to the Station Commander, Brigadier regarding some theft. The complaint was made after the Commanding Officer of Armed Forces Medical Store, Lucknow learnt that a theft was committed in the medical store in between 14/15-4-1984. On 8-5-1984 a named F.I.R. was also lodged against Col. A.N. Dheer, R.D. Singh, D.N. Shukla and one Achhan Proprietor Okas Enterprises with Police station Cantt. Lucknow. A Court ~~Marshal~~ Inquiry was initiated against Col. A.N. Dheer, R.D. Singh and D.N. Shukla, and the petitioner was also examined in the same. The three officers namely, Col. A.N. Dheer, R.D. Singh and D.N.

Shukla were found guilty and were dismissed from service by General Court Martial. The applicant was also asked to deposite Rs.11,175-00 as cost of deficient stores because he was stock holder of certain theft items, which were reported to be missing. The applicant submitted his reply that he had nothing to do with the alleged theft and he could not be made responsible to pay Rs.11,175-00. Since nothing was found against the applicant, the recovery order was cancelled by an order dated 6-5-85. But, subsequently, he was charge sheeted under Rule 14 of the Central Civil Services (Classification Control and Appeal) Rules, 1965 (Annexure-5 to the application).

3. The applicant submitted his reply on 13-7-85, denying both the charges. He also mentioned that the copies of documents were not supplied to him; that he would submit the full and complete reply after the receipt of the copies of the documents and he also prayed that he may be given personal hearing.

The applicant states that Sri N.K.P. Singh Senior Store Keeper and Sri S.L. Chaudhary Store Officer were examined as witnesses against him, although they were not mentioned in the charge sheet and the documents referred which ^{had} ~~was~~ not found place in the same also were relied on by the Inquiry Officer.

The Inquiry Officer ^{had} taken into consideration the statements of the witnesses which were not shown in the list of documents furnished with the charge sheet and the applicant was not allowed to cross examine the witnesses without the copies of the statements recorded in the previous enquiry held against the officers who had committed the theft. Now, the Inquiry Officer

submitted his report against the applicant, mentioning there in that there was a clear proof that the applicant was also involved in the theft. The disciplinary authority ^{is agreeing} with the conclusion of Inquiry Officer by an order ^{is} dated 21-11-1986 dismissed the applicant from service. The applicant filed appeal before the superior authority and thereafter revision which were dismissed vide orders dated 12-1-87 and 24-11-87 respectively, and then he approached to the Tribunal. The applicant alleges that the order of dismissal was passed by an incompetent authority, as his appointment was made by the Director General and not by the Deputy Director General, Armed Forces Medical Services. and he further alleges that in the inquiry proceedings there was clear denial of principles of natural justice and the charges on which he has been held guilty did not find place in the charge sheet.

4. We have perused the documents and heard the arguments of the learned counsel for the parties. The respondents states that the Inquiry Officer recorded finding against the applicant, so far charge no. 2 is concerned, ^{that} there was a clear proof that he was involved in the ^{is} theft. The learned counsel for the applicant denied the charges. From records, it also appears that the statements of two witnesses were taken into consideration by the Inquiry Officer without supplying the copy of the same to the applicant and also they were not shown in the list of documents furnished with the charge sheet, and the applicant was not allowed

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to cross examine the witness. Thus the inquiry proceedings are vitiated. The application is liable to be allowed. As such, it is not necessary to enter into the question of appointing authority. The application is allowed. The order dated 21-11-86 is quashed and the applicant is deemed to be continued in the service. It is open for the opposite parties to hold a fresh inquiry against the applicant, in case they so desire and no observation in this regard is made. In the circumstances we make no order as to costs.

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MEMBER (A)

(sns)

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VICE CHAIRMAN

March 13, 1991.
Allahabad.