

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 3rd DAY OF APRIL, 2001

Original Application No. 766 of 1993

CORAM:

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

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

Sudama Prasad, Son of Shri Khedu Prasad  
R/o Vill. Banguwan Kalan, P.O.  
Banguwan Kalan, District Lalitpur.

... Applicant

(By Adv: Shri M. P. Gupta)

Versus

1. The Union of India through the Secretary, Ministry of Defence Government of India, New Delhi.
2. The Commander, Head Quarters, Allahabad Sub Area, Allahabad.

... Respondents

(By Adv: Shri Ashok Mohiley)

O R D E R (Oral)

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

This OA has been filed challenging order dated 9.12.1983 by which applicant has been removed from service on <sup>Conclusion</sup> ~~complaint~~ of the disciplinary proceedings against him. He has also challenged the order dated 15.2.1993 by which his appeal was dismissed by the Appellate Authority.

The facts in short giving rise to the proceedings are that applicant was serving as Conservancy Safaiwala under the respondents. He was served with a memo of charge dated 29.1.1983 alleging that applicant while functioning as conservancy safaiwala on 16.7.1982 communicated directly with the higher authorities in contravention of Ministry of Defence O.M.No.18(72)16629/D/Lab dated 9.12.1953 and Rule 3 of Central Civil Services Conduct Rules, 1965.



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The second charge against the applicant was that he directly communicated certain allegations on 13.10.1982. The third charge is that while making application on 13.10.1982 he raised false allegations against Administrative Commandant, Talbehat in violation of Rule 3 of Central Civil Services Conduct Rules 1965. Enquiry officer gave report which was accepted by the Disciplinary Authority and he punished the applicant by removing him from service by order dated 9.12.1993, which has been confirmed by Appellate Authority on 15.2.1993.

Shri M.P.Gupta learned counsel for the applicant has assailed the orders on the following grounds:

The first ground is that the applicant was not supplied copies of the letters dated 16.7.1982 and 13.10.1982 which were the basis of the charge against him.

Learned counsel has submitted that applicant specifically denied having written letters to the higher authorities or that he made any allegations against his higher authorities. He demanded copies of the letters so that he may defend himself effectively. However, the copies of the letters were not given. It is submitted that <sup>in</sup> the memo of appeal against <sup>this</sup> grievance was raised but the Appellate Authority <sup>has</sup> not considered. The learned counsel has submitted that the entire proceedings were held in utter disregard of the principles of natural justice and the applicant has been punished in illegal and arbitrary manner. Learned counsel has also submitted that the complainant <sup>of</sup> this case Major Rajendra Singh <sup>who</sup> was not examined at all, whereas Major R.B.Singh who was not mentioned as a witness in the memo of charge was examined. It is submitted that Major Rajendra Singh was a vital witness who has not been examined even though for his examination applicant made an application. It has also

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been submitted that the order of the Appellate Authority is not a speaking order and the order cannot be sustained being in violation of principles of natural justice.

We have carefully examined the record and considered the submissions of the learned counsel for the applicant and we find force in the same. In the reply to the memo of charge applicant specifically claimed supply of the copies of the two letters so that he may controvert them effectively. He had denied the charge. However, respondents refused to give copies of letters to him. After the order of disciplinary authority dated 9.12.1983 applicant again in his memo of appeal (Annexure 6) raised this grievance specifically in paragraphs 1 & 2. In para 3 of the memo of appeal he raised the issue regarding non examination of Major Rajendra Singh who was complainant but the Appellate Authority, <sup>who could decide appeal after ten years,</sup> has not considered these points and dismissed the appeal by an order which does not give any reasons. In OA in para 4(iii) applicant has raised his grievance <sup>regarding non supply of above documents,</sup> which has been replied in para 14 of the counter affidavit in the following manner:-

14. That in reply to the contents of paragraph no.4(iii) of the petition are not admitted as stated therein. It is submitted that since he himself admitted that he had written letters to higher authorities directly in the capacity of General Secretary in answer to question 4 and question 5 asked by the board which <sup>can</sup> be seen on page 24 of the proceedings. This fact, however, he had refused on certain occasions during the inquiry to meet his requirement. Letters written by him directly to higher authorities are held on record and his signatures were verified with his signature



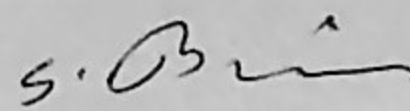
in Liveries Register and monthly payment voucher. However, no such request stated to have been made by Shri Sudama Prasad hence the question of giving of copies of his letters written directly to higher authorities does not arise."

From the aforesaid reply it is clear that the copies were not supplied to the applicant on the ground that he had admitted in his reply that in capacity of the General Secretary of the Union he had written certain letters to the higher authorities. In our opinion, on the basis of vague admission inference could not be drawn by the respondents against applicant that he admitted the letters in question namely dated 16.7.1982 and 13.10.1982 containing allegations. From the reply submitted by the applicant and from the memo of appeal it is clear that he was raising grievance right from the beginning for non supply of the documents but the respondents refused to give copies. He was entitled to give his reply about the genuineness of the signatures on the basis of letters. The comparison of his signatures by respondents behind his back could be used for initiating proceedings but in the disciplinary proceedings, <sup>he</sup> ought to have been confronted with the signatures and only in case he admitted, it could be taken as admission of letters and its contents. In our opinion, the respondents proceeded ~~only~~ under misconception of legal position in this regard. We have also noticed that even before the Enquiry officer applicant claimed documents as is clear from the written brief to the Board of Enquiry. In our opinion, applicant was denied ~~any~~ opportunity to rebut the allegation and the entire proceedings suffered from manifest illegality. <sup>the</sup> impugned orders cannot be sustained.

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For the reasons stated above, this OA is allowed and <sup>and appellate authority</sup> the impugned orders of the disciplinary authority, dated 9.12.1983 and 15.2.1993 are quashed. As charges were in respect of the year 1982 and more than 18 years have passed, we do not think it proper to keep the issue open for any further inquiry. The respondents, therefore, shall treat the matter closed. The applicant shall be entitled to be reinstated on the post with continuity of service <sup>which shall be complied with, within four months</sup> with 25% of the backwages. There will be no order as to costs.

S. B.   
MEMBER (A)

  
VICE CHAIRMAN

Dated: 03.4.2001

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