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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH : JODHPUR

Date of oreer : 11.04.2001

O.A. No. 77/2001

Raj Kumar son of Shri Narain Das Swami aged about 32 years, resident of Hanuman Hatha, Rastriya Doot Press Ke Piche, Bikaner (Rajasthan) - presently employed on the post of Cable Jointer HS II in the office of Garrison Engineer, Air Force, Nal, Bikaner.

... Applicant.

versus

1. Union of India through the Secretary, Ministry of Defence, Raksha Bhavan, South Block, New Delhi.
2. Commander Works Engineer, Air Force, Bikaner.
3. Shri R.S Thakur, Garrison Engineer, Air Force, Sirsa, Haryana.

... Respondents.

Mr.S.K. Malik, Counsel for the applicant.

TORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman  
Hon'ble Mr. Gopal Singh, Administrative Member

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

This application is filed challenging the order of the disciplinary authority dated 19.02.2001. The contention of the applicant is that this order rejecting his prayer for change of the enquiry officer is illegal. The learned counsel appearing for the applicant contended that the enquiry officer, who is now conducting the proceedings, is biased against him. Therefore, the order dated 19.02.2001 (Annexure A/1) is liable to be set aside.



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2. The learned counsel for the applicant invited our attention to the day-to-day order sheets kept by the enquiry officer, contending that from these records, it is clear that the enquiry officer is biased against the applicant. The said order sheets are produced at Annexures A/7 to A/9. We have gone through those order sheets. From the reading of those order sheets, it is clear that the applicant was permitted to engage a defence assistant, but he did not keep such a defence assistant ready on one ground or the other, and accordingly, the enquiry officer was of the opinion that it is the C.O., i.e. the applicant, who was prolonging the enquiry proceedings, and not allowing finalisation of the proceedings in terms of the directions issued by Hon'ble High Court of Rajasthan. These proceedings also reveal that the applicant had earlier engaged a defence assistant from out-station and later, he requested for engaging a defence assistant from in-station, and he was allowed to engage a local defence assistant by 5th March, 2001, without fail. But inspite of that, the applicant has not produced the willingness of the local defence assistant by 5.3.2001, and he has not even submitted the name of such local defence assistant till 19.03.2001. In those circumstances, on 19.03.2001, the enquiry officer decided to continue with the proceedings without the defence assistant's assistance. On that date, the applicant was directed to furnish the list of witnesses and additional documents, if any, which the applicant declined to furnish the same, and he also refused to sign the daily order sheet proceedings. However, it appears that the matter was adjourned to 20.03.2001. But on that date also, the applicant did not report for hearing by sending a medical certificate through his relatives. In those circumstances, now by proceedings sheet dated 20.03.2001, the hearing is fixed on 16.04.2001 at Headquarter, Bikaner. From these proceedings filed vide Annexures A/7 to A/9, it is clear that the applicant was not co-operating with the enquiry officer. On the basis of these materials, it is clear that the enquiry officer wanted to complete the proceedings as soon as possible, as directed by Hon'ble High Court of Rajasthan. Only because the enquiry officer is not granting adjournments



to the applicant sought on one ground or the other, it cannot be inferred that there is any bias on the part of the enquiry officer against the applicant. Therefore, the applicant has not established the bias attitude of the enquiry officer, and it is not a fit case for changing the enquiry officer. Therefore, the impugned order does not call for any interference.

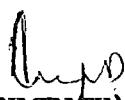
3. However, the learned counsel for the applicant submitted that one more opportunity be given to the applicant to engage the defence assistant on 16.04.2001, to which date the enquiry is now posted. But in our opinion, the applicant is not entitled to any kind of indulgence. By accepting the prayer made by the learned counsel for the applicant to engage a defence assistant by 16.04.2001, we think it appropriate to permit the applicant to engage the defence assistant. However, it is made clear that the applicant shall brief about his case to the defence assistant and keep him ready to conduct the proceedings on 16.04.2001, without seeking any further adjournments.

4. The learned counsel for the applicant nextly invited our attention to Annexure A/2 dated 29.02.1996. The Annexure A/2 is not the one challenged in this case. It is a note of the department saying that the applicant is threatening and intimidating the superior officers, and accordingly, his entry to any Air Force/Defence installation/Office is totally banned. It is also brought to our notice that separate proceedings in this behalf were initiated against him. If that is so, we do not wish to express any opinion in this behalf. Suffice to say that this application is liable to be dismissed in terms of the reasons we have already noted above. Accordingly, we pass the order as under:-

"The application is dismissed at the stage of admission. However, the applicant is permitted to keep his local defence assistant ready to conduct the case on 16.04.2001, and if such defence assistant is

[Signature]

ready to conduct the case, he may be permitted to do on that date. If the applicant fails to keep the defence assistant ready on that date, it shall be presumed that the applicant does not want the help of defence assistant, and if he wants to conduct the case himself, he may be permitted to do so. Since the charge-sheet relates to the year 1995, we direct the enquiry officer to complete the enquiry within a period four months from today, and the applicant shall co-operate for completion of such enquiry. The English proceedings may be explained by translating it in Hindi to the applicant. "

  
(A.P. NAGRATH)  
Adm. Member

  
(JUSTICE B.S. RAIKOTE)  
Vice Chairman

CVR.

Part II and III destroyed  
in my presence on 28-3-02  
under the supervision of  
section officer ( ) as per  
order dated 19/3/02

Section officer (Record)

11/4/2001

Copy of order alongwith other entries  
sent to Nessar vide no 141 to 143  
date 17-4-2001

Post and telegraph  
from R-2 & 3 wing  
A.D. R-1 wing