

22

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH; JODHPUR**

**Original Application No. 220/2009 & M.A. No. 57/2011**

Date of decision: 06.05.2011

**CORAM: HON'BLE DR. K.B. SURESH, MEMBER (J) &  
HON'BLE MR. SUDHIR KUMAR, MEMBER (A)**

Lalit Malodia s/o Shri R.N. Sharma aged about 37 years, r/o 32, Lakshmi Nagar, Near 1<sup>st</sup> Park Paota "C" Road, Jodhpur, Presently posted as STA "B" Defence Lab, Jodhpur.

..... Applicant

Mr. Kamal Dave , Counsel for the applicant.

**Versus**

1. Union of India through the Secretary Govt. of India, Ministry of Defence, Defence Research and Development Organization, Sena Bhawan, New Delhi.
2. Director Defence Laboratory, Ratanada Place Jodhpur.

..... Respondents

Mr. M. Godara proxy for Mr. Vinit Mathur, counsel for respondents.

**ORDER**

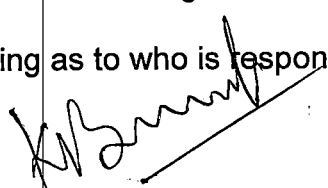
**Per Dr. K.B. Suresh, Member (Judicial)**

We have gone through the pleadings and heard the learned counsels in detail.

2 M.A. No. 57/2010 is allowed and the documents annexed therewith are taken on record.

3 The relief claimed appears to be that the disciplinary proceedings under Rules of 1965 to be declared as without jurisdiction and thus to be quashed. We have examined it and it has been found that CSD Canteen are under the pervasive control of the State, it is operated for the welfare of the employees and also handles money which belongs to the Government. Therefore elements of Article 12 are attracted and therefore it cannot be stated to be without jurisdiction.

4 We have had also looked at the charges and found them to be vague and that it is devoid of clear finding as to who is responsible for the prejudice, if




23

any caused. Therefore, we have gone through the reply of the applicant which is produced as Annexure A/3 in order to find out the degree of application of mind. He had said that the respondent department is maintaining the stock and is exclusively within the domain the stock In-charge who receive the stock physically and is maintaining the stock. The minutes of the fact finding committee produced before us with reference to Convening Order NO. DLJ/CSD-Enq/Estt/09 dated 26<sup>th</sup> May, 2009 is of significance. The committee has found that Sh. Rakesh Mathur, TA "B" is Stock holder and responsible for physical stock delivery of items and he is responsible for the stock whereas Sh. Lalit Malodia is Canteen Manager who is Incharge and supervisor of the day to day operation of the canteen. He would say that even though he is the Manager he has not got over all control like obtaining stock etc. as well as control of and integrity and devotion to duties of the employees. Relating to issue of billing he would say that DSC personnel have come alongwith the financial sanction approved by the Director, DLJ dated 20.4.2009 which is keeping in CSD procedure to purchase boot polish in bulk quantity i.e. 246 in number having cost Rs. 5164/-. They demanded the bill by name of Director DLJ. Since, there is no such kind of facility available in DLJ CSD canteen to billing by name of Director ; manual bill was given by receiving cash which was adjusted with the Stock Incharge. There does not seem to be anything amiss here. Relating to the Suitcase and the Milton carrier also plausible explanation which is compatible with his duties so assigned to him are given. Therefore, the charges does appear to be vague . It is all based on an erroneous interpretation of Rules or procedure to be adopted but then CSD persons themselves brought authorized sanction of Director himself and if the applicant does not comply with these directions then it would be held to be misconduct. All in all it does not appears to be a fault on the part of the applicant. All in all it does not appears to be a fault on the part of the applicant. All the apparently missing items were relating to personnel who had specifically the users of the canteen and the money with respect to transaction is kept with

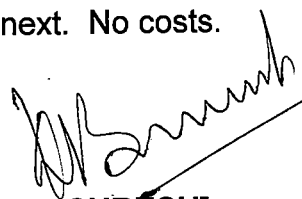


the stock holder Rakesh Mathur as admitted by himself, which have also been found by the committee. Committee's conclusion appears to be that all the financial records i.e. stock, cash in bank, profit, cheque issued, debit value, credit notes, quantitative discounts, sales and refunds etc. are as per the records of the last six months. There was no irregularity came to the notice of the committees as seen by its observations. Since, the charges is based on the committees report therefore question then would be either all the charges devoid of material or result of imagination. Therefore, the charges would thus appears to be based non existent facts even prima facie . If there is no actual loss applicant cannot be held responsible as even otherwise the committee has found that Rakesh Mathur is Stock In-charge and if there is deficiency in stock it is due to this alone apparently Mr. Rakesh Mathur had given a statement also which is produced as Annexure A/5. He had accepted that he is Incharge and he is ready to make good the loss if there is any shortage or loss. Therefore not even by imagination can the applicant be held responsible for the loss caused by the canteen and in fact the committee is found there is no loss at all. After finding of the committee that there is no loss there can not be any responsibility placed on anyone. Thus it would appear that the powers exercised by the authority would be an abuse of process of administrative powers on the twin ground and therefore the charge sheet and all its consequences are hereby quashed.

5 The O.A. is allowed to the limited extent stated above. Applicant is entitled to the benefit of this quashment in three months next. No costs.

  
(SUDHIR KUMAR)  
MEMBER(A)

SK

  
[Dr. K.B. SURESH]  
MEMBER (J)

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