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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

OA No. 134/2012
Jodhpur this the 25th day of September, 2013.

CORAM

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J) and
Hon'ble Ms. Meenakshi Hooja, Member (A)**

Dr Aminu Deen S/o Shri Baulaki Khan, aged about 53 years, resident of 4-E-152, Jai Narain Vyas Colony, Bikaner, last employed on the post of Principal Scientist in Central Sheep and Wool Research Institute, Malpura, Avikanagar – 304 501 Distt. Tonk, (Raj).

.....Applicant

(Through Advocate Mr Rajeswar Vishnoi)

Versus

1. Indian Council of Agriculture Research through its Secretary, Krishi Bhawan, New Delhi.
2. Director, National Research Centre on Camel, Bikaner.
3. Finance and Account Officer, CAZRI, Jodhpur.
4. Dr K M L Pathak, Dy. Director General, Animal Science, I C A R, Krishi Bhawan, New Delhi.
5. Shri Satnam Singh, T-3, National Research Centre on Camel, Bikaner.
6. Shri Mahinder Kumar Rao, T-5, National Research Centre on Camel, Bikaner.

(Through Advocate Mr Avinash Acharya)

.....Respondents

ORDER (Oral)

Per Justice Kailash Chandra Joshi, Member (J)

The applicant, Dr Aminudeen, by way of this application has challenged the legality of the order Annex. A/1 and A/2 by which Rs 35,200/- has been recovered from his gratuity towards non-handing over of Digital Camera (with monitor model Nikon Cool Pix-4300).

2. The short facts of the case as averred by the applicant are that he served as Assistant Gynecologist in Rajasthan Agriculture University during the period from 22.08.1984 to 10.06.1999 and thereafter he was appointed as Senior Scientist in ICAR and enjoyed his promotion as Principal Scientist. A notification No. 1/2006 was issued by Agriculture Scientist Recruitment Board, inviting application for filling the post of Director NRCC, Bikaner. 16 persons including the 2nd respondent applied for the same. The applicant challenged the selection of respondent No. 4 vide OA No. 105/2007 which came to be decided on 06.03.2009 and this Tribunal held that the 4th respondent did not have the essential qualification but still the matter was remanded to the Governing body of ICAR which justified the selection of respondents No. 4 despite the fact that he is not possessing the essential qualification. The respondents No. 4, 5 & 6 alongwith 3-4 persons not belonging to the institute planned and executed a conspiracy of snatching official digital camera from the applicant on 26.08.2008 when the applicant along with one class IV employee was returning from the camel corral to his chamber. On the way back from camel corrals, respondents No. 4 proceeded towards the applicant and ordered the respondent No. 5 & 6 and got the digital camera snatched from the applicant. The applicant submitted written complaint at Jai Narayan Vyas Colony Police Station in Bikaner and FIR No. 172/2008 was registered for snatching of Digital Camera against the respondents No. 4, 5 & 6. A counter FIR No.

173/2008 was also registered against the applicant in the same police station by the respondents No. 4 & 5. It has been averred in the application that due to the conspiracy which was hatched and executed against the applicant that is why this camera snatching incident took place. The applicant filed detailed representation to the DG, ICAR on deduction made on account of camera from retirement gratuity but no action was communicated to the applicant and by way of Annex. A/1 & A/2, it was ordered to recover Rs 35,200/- from the applicant as cost of the Digital Camera. The applicant has filed 21 annexure in support of his application.

3. By way of counter, the respondent-department has denied the charges of conspiracy against the applicant and further contended that the applicant was not authorized to use the Digital Camera and snap the photos at relevant times. The applicant has filed false FIR against the respondents No. 4, 5 & 6. It has been further averred in the reply that a committee was constituted to inquire the alleged incident reported by the applicant and this committee concluded that no such manhandling or snatching had happened at the relevant time. The competent authority of the respondent-department came to the conclusion that Digital Camera was never snatched from the applicant and ordered to recover the cost of the Digital Camera amounting to Rs 35,200/- from the gratuity of the applicant. Therefore, order Annex. A/1 & A/2 do

not require any interference by this Tribunal at this stage. It has also been averred in the counter that earlier in judgment at Annex. R/8, some strictures were passed about the conduct of the applicant by this Tribunal in OA No. 189/2010.

4. The respondent No. 5 has filed a separate affidavit and he also contended that the charges leveled by the applicant are absolutely baseless, false and concocted.

5. By way of rejoinder, the applicant while reiterating the same facts annexed some more documents including the representation Annex. A/22, dated 31.08.2010 submitted to the Director NRCC Bikaner and copy to Dr. S. Ayyappan, DG, ICAR, Secretary, DARE, Krishi Bhavan, New Delhi.

6. Heard both the parties. During the course of arguments it emerged that the representation submitted by the applicant at Annex A/22 has not been decided by the respondent-department and further it emerged out that before passing order of recovery of cost of Digital Cameral to the tune of Rs 35, 200/- from the applicant, no show cause notice was issued to him. So far as report Annex. R/7 is concerned, it is not regarding the incident of snatching of Digital Camera or recovery of cost of Digital Camera from the applicant, and rather it is related to manhandling of respondents No. 5 & 6 by the applicant in the office premises of

NRCC Bikaner and misbehaviour with respondent No. 4 when he intervened. The Annex. R/7, therefore, cannot be said to be an inquiry against the applicant regarding snatching of Digital Camera and for recovery of cost of Digital Camera which was not found in the possession of the applicant.

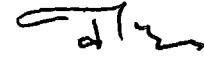
7. Counsel for the respondents drew our attention towards Annex. R/4 regarding handing over to another person and he contended that Digital Camera was not handed over to the person taking charge. We are not impressed by the argument advanced by the counsel for the respondents. Even if it is supposed that Digital Camera was not handed over to the person who took charge from the applicant but still a show cause notice was required to be issued for explaining why the cost of the Digital Camera to the tune of Rs 35,200/- should not be recovered from the applicant but no such show cause notice was issued by the respondent-department and simply recovery had been ordered and the cost of Digital Camera was recovered from the applicant from his gratuity.

8. Looking into the entire facts and circumstances of the case and particularly that the cost of Digital Camera had been recovered from the applicant from his gratuity without giving an opportunity of hearing or calling his explanation by way of show cause notice, we propose to dispose off this OA with certain directions in the light of discussion in the preceding paragraphs.

9. Accordingly, OA is disposed off with the directions that the competent authority shall issue a show cause notice within 1 month from the date of receipt of this order to the applicant and provide the applicant due opportunity of hearing and the applicant may file a reply. It is further directed that respondents shall decide the matter afresh and pass a speaking and reasoned order clearly stating why the cost of the Digital Camera is to be recovered from the applicant, which had recovered from his gratuity, within 6 months after receipt of reply to the show cause notice by the applicant.

10. There shall be no order as to costs.


(MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER


(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER

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