

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No.149/98

Monday, this the 27th day of November, 2000.

CORAM:

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K.P.Suresh Kumar,
Senior Store Keeper,
Naval Aircraft yard,
Naval Base, Cochin-682 004. - Applicant

By Advocate Mr VR Ramachandran Nair

Vs

1. The Chief of Naval Staff,
Naval Head Quarters,
New Delhi.
2. The Flag Officer Commanding-in-Chief,
Southern Naval Command,
Naval Base, Cochin-682 004.
3. The Flag Officer Commanding-in-Chief,
Head Quarters,
Eastern Naval Command,
Naval Base.P.O.
Vishakhapatnam-530 014.
4. The Commodore Superintendent,
Naval Aircraft Yard,
Naval Base,
Cochin-682 004.
5. The Naval Officer-in-Charge,
Naval Office,
Port Complex,
Rajaji Road,
Chennai-600 009. - Respondents

By Advocate Mr Govindh K Bharathan, SCGSC

The application having been heard on 27.11.2000, the Tribunal
on the same day delivered the following:

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

The applicant who is a Senior Store Keeper, has filed this application impugning the orders dated 16.3.94(A-1) by which an amount of Rs.488/- was ordered to be recovered from his pay and allowances inasmuch as the recovery has been ordered without holding an enquiry, the report dated 20.1.94(A-3) of the Board of Enquiry holding that the officers including the applicant are prima facie guilty and requesting initiation of disciplinary action against them, the letter dated 3.2.94(A-4) with a direction of the Naval Headquarters for taking action, and A-6 memorandum dated 21.9.95 calling upon the applicant to explain why action should not be taken against the applicant under Rule 16 for being negligent inasmuch as a discrepancy of 16.25 KG Brass Welding Rods occurred in the month of September 1991 which he did not notice while he took over, the order dated 13.12.95(A-8) for recovery of Rs.488/- from the pay and allowances of the applicant for making the loss good to the state and the order dated 22.11.96(A-12) by which his request for reimbursement of Rs.488/- was rejected. Applicant claims to have taken over charge as Store Keeper on 30.11.91. It was found by a Board that the discrepancy in store for a shortage of 16.25 KG of Brass Welding Rods which occurred in the month of September, 1991 was not noted by the applicant when he took over, that on the basis of this report, by order dated 16.3.94(A-1) a sum of Rs.488/- being the value of Rods was recovered from the pay and allowances of the applicant. Subsequently the charge

sheet A-6 was given. On consideration of the explanation A-7, A-8 order imposing on the applicant a penalty of recovery of Rs.488/- from his pay and allowances and a censure was awarded. The applicant requested for reimbursement of Rs.488/- recovered from his pay and allowances before issuance of memorandum of charge. This request was turned down by A-12 order. The applicant has alleged that the recovery from the pay and allowances of the applicant before any enquiry was held before even a charge sheet was served on him was unjust, illegal and unsustainable. It has also been alleged that the applicant was not responsible for the loss as it had occurred prior to the date of his taking over charge.

2. Respondents resist the claim of the applicant.

3. We have carefully gone through the pleadings and materials placed on record and have heard the learned counsel on either side. It is evident from the statement of the applicant in his explanation to the memorandum of charge (A-7) that there was a shortage of 16.25 KG Brass Welding Rods and the applicant had not noted it. Virtually the allegation that the applicant had not brought on record the shortage while taking over charge was admitted. It is on that basis the impugned order A-8 was issued. However, it is true that an amount of Rs.488/- was recovered prior to the issuance of A-6 proceedings under Rule 16 of the CCS(CCA) Rules. Respondents should have resorted to recover the amount only after



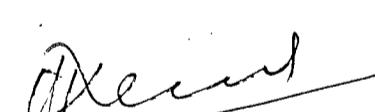
affording the applicant an opportunity to show cause by issuing a notice. Although the recovery preceded the proceedings under Rule 16 after consideration of the explanation submitted by the applicant under Rule 16 memorandum, the competent authority on the basis of the material available decided that the applicant was guilty of negligence. We are not in a position to find that this finding of the disciplinary authority was erroneous or passed on no material at all because in A-7 as we have stated earlier the applicant has virtually admitted this.

4. Though the recovery was affected prior to the initiation of proceedings, as the amount involved is only Rs.488/- we are not persuaded to interfere in the matter.

5. In the result the application is dismissed, leaving the parties to bear their own costs.

Dated, the 27th of November, 2000.


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

trs

LIST OF ANNEXURES REFERRED TO IN THE ORDER:

1. A-1: True copy of the letter No.269/1 dated 16.3.94 issued by the 5th respondent to the applicant regarding recovery of Rs.488/-
2. A-3: True copy of the letter No.DL/3599/631/PC dated 20.1.94 of the 1st respondent addressed to the 3rd respondent.
3. A-4: True copy of the letter No.SS/1525 dated 3.2.94 of the IIInd respondent addressed to the 5th respondent.
4. A-6: True copy of the Memorandum No.277/1/NSC(M) dated 21.9.95 issued by the 5th respondent to the applicant.
5. A-7: True copy of the explanation dated 6.11.95 submitted by the applicant to the 5th respondent.
6. A-8: True copy of the order No.277/1/NSC(M) dated 13.12.95 issued by the 5th respondent.
7. A-12: True copy of the letter No.277/1/NSC(M) dated 22.11.96 of the 3rd respondent to the applicant.