

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.184/02

Friday this the 23rd day of July 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

N.P.Kuttan,
S/o. Itty Pappy,
Peon, INHS, Sanjivani,
Naval Base, Kochi - 4. Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented by
the Secretary to Ministry of Defence,
New Delhi.
2. The Flag Officer Commanding in Chief,
Headquarters, Southern Naval Command,
Kochi - 682 004.
3. The Chief Staff Officer (P & A),
Headquarters, Southern Naval Command,
Kochi - 682 004.
4. The Surgeon Captain,
Headquarters, Southern Naval Command,
Kochi - 682 004. Respondents

(By Advocate Mr.C.Rajendran, SCGSC)

This application having been heard on 23rd July 2004 the
Tribunal on the same day delivered the following :

O R D E R

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

The applicant, Peon, INHS, Sanjivani has assailed in this application order dated 14.2.2001 (Annexure A-1) of the 3rd respondent imposing a penalty of reduction of his pay by reducing three stages from Rs.3200/- to Rs.3020/- in the time scale of pay of Rs.2550-55-2660-60-3200/- for a period of three years with effect from 1st March, 2000 with a direction that he would not earn increments of pay during the period of reduction and that on expiry of this period the reduction would not have the effect of

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postponing his future increments of pay, Annexure A-2 of the 3rd respondent dated 16.2.2001 correcting the date of effect from 1st March, 2000 to 1st March, 2001 as also Annexure A-3 order dated 17.9.2001 of the 2nd respondent refusing to interfere with the penalty in appeal. The facts in brief are as follows :

2. The applicant was served with a Memorandum of Charge dated 24.2.1997 (Annexure A-5) which contained the following two article of charges.

"Article I : That the said Shri.N.P.Kuttan, while working as Peon in INHS, Sanjivani, Kochi did fail to obey the orders of his superior in that he failed to return the private letters in advertently received in Ships Office of INHS, Sanjivani. The said act of Shri.Kuttan is unbecoming of a Govt. Servant and violation of Rule 3(1)(iii) of CCS (Conduct) Rules, 1964.

Article II : That the said Shri.Kuttan, while functioning as Peon in INHS, Sanjivani, misplaced the private mail kept under his personal custody with the sole purpose of causing embarrassment to Naval Base Post Office. The said act of Shri. Kuttan is unbecoming of a Govt. Servant and in violation of Rule 3(1)(iii) of CCS (Conduct) Rules, 1964."

3. Since the applicant denied the guilt an enquiry was held. Three witnesses initially listed in the Annexure A-3 Memorandum of Charge and two additional witnesses as desired by the applicant were examined. Taking into consideration the evidences and the report of the inquiry officer holding that the article of charges has been established and the representation of the applicant the Disciplinary Authority vide Annexure A-1 order found the applicant guilty of charges and imposed on him the penalty as aforesaid. The Appellate Authority considered the appeal in its detail order Annexure A-3 but could not find any reason to interfere with the order of the Disciplinary Authority.

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The applicant is aggrieved by these orders. The applicant challenges these orders mainly on the ground that the finding that he is guilty is arrived at without any legally acceptable evidences and that the enquiry has been held without affording him reasonable opportunity to defend inasmuch as his request for cross-examination of the witnesses were not entertained.

4. Respondents resist the claim of the applicant.

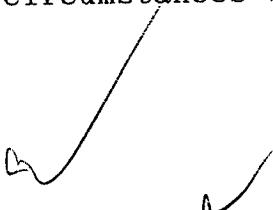
5. Learned counsel for the applicant took us through the deposition of B.B.Singh, P.Remai and N.A.Khan and said that these witnesses had not implicated the applicant and therefore the finding that the applicant is guilty is perverse. The counsel on the other side pointed out to the answers of the witnesses in their cross-examination which proved that B.B.Singh had testified to the effect that the applicant was asked to hand over the bundle of letters either to the Postman or to the Post Office and that he did not do so. He also pointed out that the witness Remani had stated that the applicant told her that the bundle of letters was with him and argued that both these article of charges have been conclusively established by these precis of evidences.

6. We find absolutely no force in the argument of the learned counsel for the applicant that this is a case of no evidence. The two article of charges required to be proved are that the applicant failed to obey the orders of his superior B.B.Singh to hand over the bundle of letters to the Postwoman or to the Post

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Office and that he misplaced the letters with a view to put the blame on the Postwoman. On a scrutiny of the evidences on record it is clear that on these material aspects of the two charges there is ample evidence which would lead a reasonable person to a conclusion that the charges have been established.

7. Learned counsel for the applicant argued that the enquiry has been held without affording the applicant a reasonable opportunity to defend himself. Having gone through the entire report we find that this argument is totally untenable. The applicant was given opportunity to cross-examine the first three witnesses but he did not cross-examine B.B.Singh. Then the applicant desired two additional witnesses namely Remani and Prasanna Kumari to be called. Surprisingly the date on which Remani and Prasanna Kumari summoned, the applicant refused to participate in the enquiry. Even thereafter he did not make any written request either calling any of the witnesses who had already examined or to call Remani and Prasanna Kumari for his cross-examination. Only when he was questioned after the close of the evidences in support of the charges he merely indicated that he would like to cross-examine B.B.Singh, Remani and N.A.Khan which request was not acceded to for valid reasons. We find that the enquiry had been held in conformity with the rules and the finding is supported by evidences. Under these circumstances we find little merit in this application.



8. In the light of what is stated above the application fails and the same is dismissed leaving the parties to bear their own costs.

(Dated the 23rd day of July 2004)

H.P.DAS

ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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