

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No.202/2006

This the 18th day of December, 2008

Hon'ble Mr. M. kanthaiah, Member (J)
Hon'ble Dr. A. K. Mishra, Member (A)

Vinod Kumar Sharma aged about 48 years son of late Sri M.D.Sharma, resident of C-1/492-A, Sector G, Jankipuram, Lucknow at present serving as Geologist (Senior) Geological Survey of India, Lucknow.

Applicant

By Advocate: Sri Amit Bose

Versus

1. Union of India through the Secretary, Ministry of Mines, Govt. of India, New Delhi.
2. The Union Public Service Commission, Dhaupur House, Shahjahan Road, New Delhi.
3. Geological Survey of India, 27, Jawahar Lal Nehru Road, Calcutta-16, through its Director General.
4. The Director General, Geological Survey of India, 27- Jawaharlal Nehru Road, Calcutta-16.
5. The Director, Govt. of India, Ministry of Mines, Shastri Bhawan, New Delhi.

Respondents

By Advocate: Sri S.P.Singh

ORDER

HON'BLE DR. A.K. MISHRA, MEMBER (A)

This application has been made against the order dated 24.3.2006 of respondent No. 4 imposing certain penalties on the applicant and a prayer has been made for its quashing.

2. The applicant was working as Geologist (Junior) since the date of his appointment on 24.4.1981. He applied for admission to the Ph.D course of Roorkee University and it was discovered during the scrutiny of his application that the attested copy of the mark sheet submitted by him was not a correct one. On comparison with the original tabulation sheet available in the university, it was discovered that the mark sheet was false. Whereas the records showed that the applicant had obtained 1869 total marks in the M.Sc final examination the false mark sheet showed it as 1969. The University lodged an FIR in the local

Police Station. However, after investigation, a final report was submitted on 27.7.97 which was accepted by the Additional Chief Judicial Magistrate.

3. Before such finalization of the criminal proceeding, the meeting of the Departmental Promotional Committee was convened to consider for promotion to the post of Geologist (Senior) and the case of the applicant was kept in sealed cover. Another meeting of the DPC was convened in the year 1999 and again the case of the applicant was kept in sealed cover. The applicant made a number of representations to the respondent No. 4 without any result. The case was kept in sealed cover for the third time in February 2001 in spite of his representation. So he filed Original Application No. 151/2001 and pursuant to the direction of this Tribunal, he was given promotion. But meantime, a charge sheet was issued to him on the same very facts alleging that he had given false information about his mark sheet in M.Sc examination to the Roorkee University in his application for enrolment for Ph. D degree. The second charge was that he got his mark sheet attested by another brother officer under false pretext by producing a the forged mark sheet. The third charge was with regard to enclosing the false mark sheet with his application to the University and the next charge was about his non-cooperation with University authorities to clarify the matter and calling their officials names. On denial of the charges, a regular inquiry was held and after giving due opportunities to the charged office, the inquiry officer came to a finding that all the charges were established against him. A copy of the inquiry report was furnished to him and the charged officer made his representation against the findings. The matter was finally decided in consultation with the UPSC and the penalty of reduction of pay by two stages was imposed on him with further stipulation that he would not earn increments during this period and that the reduction will have the effect of postponing his future increments.

4. The applicant has advanced the following grounds challenging the impugned order: (i) that it was issued to frustrate the claim of the petitioner before this Tribunal for opening the sealed cover and implementation of the recommendation of the DPC; (It may be mentioned here that the sealed cover was in fact opened and the applicant was given promotion to the post of Senior Geologist.) (ii) all the charges related to the incidents of remote part, which had no connection with the official duties of the petitioner; (iii) that the UPSC should not have gone into the merits of the case when their role was only to consider the validity of the proceedings against the applicant; (iv) that the UPSC while making an observation that there was no evidence to show that the applicant had forged mark sheet and that he did not derive any

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advantage by showing a higher percentage of mark sheet when the minimum requirement was much less than what he had obtained in the examination should not have, at the same time, come to the conclusion that the mark sheet was forged one. According to him, the punishment imposed to him is very harsh and is not commensurate with the gravity of offence mentioned in the charge sheet. In any case, the petitioner was denied admission in the doctorate course and should not have been penalized in so severe manner for an inadvertent error which crept into the mark sheet. Besides, the criminal investigation, started on the same facts, had ended in submission of final report.

5. The respondents have submitted that the applicant was charged with misconduct not becoming an officer. The offences which were subject matter of criminal investigation and the articles of charges in the departmental proceedings, were different. Here it was a question of conduct on the part of the applicant. There was no illegality in starting disciplinary proceedings against him. Neither is there any allegation of violation of natural justice or denial of opportunities. Under the circumstances, this Tribunal has limited scope of review. The punishment, according to the respondents, is very much in keeping with the gravity of misconduct of the applicant and the Tribunal cannot possibly interfere with the assessment of the disciplinary authority in this regard. The plea that the matter did not pertain to the field of duty does not hold much water as the disciplinary proceedings have been made as per the provisions of the CCS (CCA) Rules for violation of Rules relating to CCS Conduct Rules 1964. Closure of investigation in the criminal case under Section 420/467/468/477 IPC will not have any impact on the ~~criminal~~ ^{disciplinary} proceedings which were initiated on specific allegations of violation of conduct rules. The officer is required to maintain absolute ~~integrity~~ ^{ity} in the matter of his conduct. Therefore, there was a valid reason for initiating the disciplinary proceedings and also for imposing the penalty.

6. It is a fact that this Tribunal has limited scope of review. In this case no allegation of denial of opportunities or violation of natural justice has been made. The procedure as prescribed under rules have been meticulously gone through. Since the charges related to the conduct of the officer, the disciplinary authority had the right to initiate the disciplinary proceedings even though the criminal investigation had been closed. The citations of Supreme Court Civil Appeal No. 2911 of 1981 (1984 (1) SCC 1) and Civil Appeal No. 4294 of 1999 (1999 (7) SCC 409) filed by the counsel for the applicant are not applicable to the facts of this case.

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7. For the aforesaid reasons, we do not find any merit in this application, which is accordingly dismissed. No costs.



(DR. A.K. MISHRA)
MEMBER (A)



(M. KANTHIAH)
MEMBER (J)

18-12-08

v.