

RS

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A. No. 95/89

Anujay Krishna

Applicant

versus

Union of India & others

Respondents.

Shri A. Mannan

Counsel for Applicant

Shri L.P. Shukla

Counsel for Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

when

At the relevant point of time/the applicant was working as Administrative Officer at Central Institute of Research on Goats, he was served with a charge sheet. The charges against him were that while functioning as Administrative Officer, at C.I.R.G. Makhdoom during the year 1983, tampered with office records regarding orders of the Director, CIRC, about the grant of study leave to Shri G.M. Wani and issued an corrigendum granting him study leave upto 15.12.1983 in lieu of 31.3.1983 without the approval of the competent authority and also in utter disregard of the Council (D.G's) orders not to grant extension of study leave of Shri Wani beyond 31.3.1983 and tampered with office record. Tampering with office record is a serious misconduct and the applicant failed to maintain absolute integrity and lack of devotion to duty applicable to the ICAR employees. The enquiry officer was appointed and after conducting the enquiry he submitted the enquiry report, the

concluding portion of the report is as follows:

"The body of evidences indicate that Shri A. Krishna committed an irregularity by issuing a correigendum granting Dr. G.M. Wani study leave upto December, 5, 1983 in lieu of March, 31, 1983 without obtaining an approval of the competent authority. He also disregarded the council's orders not to grant extention of study leave to Dr. Wani beyond the March, 3, 1983. However, evidence suggest a possibility that his wrong actions could be an outcome of undue pressure exerted on him. Furthermore, the available evidences do not prove that Shri Krishna actually tampered with the of fice records. In this regard he gets the benefit of doubt."

So far as the earlier part is concerned, i.e. tampering of office record, he came to the conclusion that he is entitled to benefit of doubt. In the finding of the enquiry officer there was no action as far as tampering of record is concerned. The disciplinary authority disagreed with the report of the enquiry officer and held that the charges were proved against the applicant and two increments of the applicant for three years with cummulative effect were stopped. The applicant preferred an appeal which was dismissed.

2. On behalf of the applicant it has been contended reasons for that/disagreement with the findings of enquiry report were not given and no show cause or opportunity was given to him and the same violates the provisions of principles of natural justice. In the case of Narain Misra vs. State of

Orissa (1969 S.L.R. (S.C.) page 657) it was held that where the Punishing authority deferred from the findings of the Enquiry officer and held the official guilty of charges from which he was acquitted by the Enquiry officer and no notice or opportunity given to the delinquent official about the attitude of Punishing authority, the order of removal <sup>should be</sup> set aside being violative of principles of natural justice and fair play. The same condition arises in this case. One finding was recorded against the applicant and one in favour of him, the second charge arises out of first. It was a case where the principles of natural justice have been violated. Application deserves to be allowed. The punishment order dated 10/14.12.87 and the order dated 4.5.1988 are quashed. However, it will be open for the disciplinary authority to give reasons for disagreement and notice to the applicant for representation to the applicant and thereafter to proceed with the enquiry. In case a decision is taken to go ahead with the enquiry, the applicant will cooperate with the same. Let it be done within a period of three months from the date of receipt of a copy of this judgment.

No order as to costs.

Adm. Member.

Vice Chairman.

Shakeel/

Lucknow: Dated: 27.8.92