

(16)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No. 25/87.

Shri N.K.V. Manoharan.

... Applicant.

v/s.

Union of India & Ors.

... Respondents.

Coram: Hon'ble Shri Justice U.C. Srivastava, Vice-Chairman,
Hon'ble Member(A), Shri M.Y. Priolkar.

Oral Judgment:-

(Per Shri U.C. Srivastava, Vice-Chairman) Dated: 18.6.1991

The applicant who, at the relevant time was Inspector of Customs was charge sheeted and punished. This punishment was reduced in appeal. In substance five charges were levelled against him, which read as under:

"(1) he is alleged to have accepted illegal gratification of Rs.800/- from one Shri Mohamad Saeed a passenger who had arrived from Dubai in consideration of clearing his excess baggage.

(2) he is alleged to have neglected to subject the said passenger to thorough examination of his baggage even though he was a "red channel" passenger.

(3) he is alleged to have allowed clearance of three items for a total value of Rs.1,850/- issued a receipt No.27191 under the TBRE rules and after categorising him as a passenger falling under para 4 in terms of public Notice No.34/78 dated 15.6.1978 with ulterior motive, even though the passenger had come to India for good and his visa for stay in Dubai was cancelled.

(4) as a result of negligence on the part of Shri Nair Government revenue to the tune of Rs.4,518/- would have been lost had the passenger not been subjected to re-examination of his baggage subsequently.

(5) Shri Nair is alleged to have avoided granting Transfer of residence concession to the passenger who was entitled to the same with a view to derive benefit by favouring the passenger.

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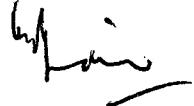
Shri K.V.M.Nair Inspector by his above acts acted in a manner unbecoming of a Government Servant and thereby contravened provisions of Rule 3(1) (i) to (iii) of C.C.S. (Conduct) Rules, 1964."

The departmental inquiry proceeded against the applicant before the Enquiry Officer. Apart from the documents statements of the witnesses were also examined. The applicant also appeared before the Enquiry Officer. The Enquiry Officer came to the conclusion that the charges against the applicant were proved. The Disciplinary Authority came to the conclusion that as there has been no actual loss of revenue to the Government due to the applicant's negligence in examining the passenger's baggage, a deterrent punishment is not called for and ordered that one increment of applicant be withheld for a period of one year without cumulative effect. Out of the five charges the Appellate Authority came to the conclusion that the charge No.4 was proved in this case and as such no modification in the punishment is required. Thereafter the applicant has approached this Tribunal.

2. Shri C.R.Menghani, learned counsel for the applicant who is a young lawyer argued this case. We have no hesitation in appreciating the way in which he argued his case. But we find ourselves unable to agree with the contentions raised by him, so artistically and succinctly. The learned counsel contended that the findings recorded by the Disciplinary Authority were perverse and no such findings could have been recorded. We have looked into the findings and we have found that there was material before the Disciplinary Authority to arrive at particular conclusions. It cannot be said that there was no evidence or the finding is hypothetical or based on surmises. Even if it could be said that if the matter had been placed before some other

Enquiry Officer or the Disciplinary Authority the finding would have been otherwise, this would not make the finding perverse, which finding was also accepted by the Appellate Authority. It may be that the charge against the applicant which has been established is a minor one and except, that he was not very vigilant or careful in checking the passengers, a lesser punishment could have been given. But this Tribunal cannot enter into the quantum of the punishment which has been awarded. However, as has been contended, because of this punishment the various benefits to which the applicant was entitled to have either not been given or have been delayed. Notwithstanding this, it appears that the applicant was considered for confirmation against the post available in 1980 and sealed cover procedure could have been followed, more so when adverse comments were expunged and his case for promotion was not considered.

3. Now the period of punishment is over and there appears to be no reason why the applicant's Efficiency Bar and the question of seniority and promotion will not be considered by the departmental authorities in accordance with law. With the above observations we dismiss the application.


(M.Y. PRIOLKAR)
MEMBER (A)


(U.C. SRIVASTAVA)
VICE-CHAIRMAN.

B.S.M.