

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

O.A.906/88

Brij Mohan Singh,
Plot No.71,
Near Hanuman Mandir,
Gokulpeth,
Nagpur.

.. Applicant

vs.

1. The Director,
National Environmental
Engineering Research
Institute,
Nehru Marg,
Nagpur.
2. Director General,
Council for Scientific and
Industrial Research,
Rafi Marg,
New Delhi.
3. Shri R.V.Sadangule,
Qr.No.G/49,
NEERI Colony,
Laxminagar,
Nagpur.

.. Respondents

Coram:Hon'ble Member(J)Shri M.B.Mujumdar

Hon'ble Member(S)Shri P.S.Chaudhuri

Appearances:

1. Shri S.G.Aney
Advocate for the
Applicant.
2. Shri V.V.Nayak,
Advocate for the
Respondents.

ORAL JUDGMENT
(Per M.B.Mujumdar, Member(J))

Date:20-1-1989

As the facts are not at all disputed
we are admitting this application and disposing of it
finally.

2. The applicant was appointed as Lower
Division Clerk in 1960. He was promoted as Upper Divi-
sion Clerk in 1965 and as Cashier in 1978. By an order
dtd. 27-8-1979 he was placed under suspension. Along
with a memorandum dtd. 5/11-3-1980 a statement contain-
ing two charges was served on him. The first charge is
for misappropriating Rs.141/- and charge No.2(i) is for

misappropriating 2 paise; charge No.2(ii) is for leaving a discrepancy of 72 paise and charge No.2 (iii) is for an excess credit of 10 paise.

3. An Inquiry Officer was appointed.

After completion of the inquiry the Inquiry Officer submitted his report on 26-3-1987. After going through the report the Disciplinary Authority found that the inquiry had not been conducted in accordance with provisions of Rule 14 of the CCS(CCA)Rules, 1965 inasmuch as the applicant was neither asked to state his defence nor allowed to give evidence in his defence. ~~There were other grounds also.~~ The enquiry proceedings were abruptly closed and no hearing was held after adjourning of the proceedings sine die on 24-3-1987. Hence the Disciplinary Authority directed in the interest of justice that a de-novo enquiry should be held against the applicant. Along with a memorandum dtd. 24-7-1987 a statement containing the same charges was served on the applicant. That inquiry is still going on. According to the respondents the inquiry cannot be completed because of the non-cooperation of the applicant.

4. Thereafter, the applicant has filed this application on 2-12-1988 requesting that (i) the suspension order dtd. 27-8-1979 be quashed and set aside, (ii) the respondents be directed to pay the applicant subsistence allowance at the rate of 75% of the basic pay as per revised scale.

5. The respondents have resisted the application by filing their reply today with a copy to the applicant. We have heard Shri S.G.Aney, advocate, for the applicant and Shri V.V.Nayak, advocate, for the respondents.

6. The above facts will show that the applicant has been kept under suspension since 27-8-1979 i.e. for about 9½ years. The charges are for some petty amounts, ~~except for the first charge~~. We do not think that the applicant should have been kept under suspension for such a long time for the charges framed against him. Moreover, in view of the nature of the charges, it is immaterial whether the applicant is under suspension or not. Lastly, the Inquiry Officer will be required to decide the charges on the basis of old documentary evidence. We, therefore, feel that the suspension of the applicant for such a long period is unjustified. We, therefore, propose to revoke it.

7. As regards the departmental proceedings we find that the charges were first served on the applicant along with a memorandum dtd. 5/11-3-1980. The Inquiry Officer had submitted his report. The Disciplinary Authority found fault with the conduct of the inquiry and directed that a de-novo inquiry should be held against the applicant. It is not clear why a fresh chargesheet containing the same charges was served on the applicant along with the memorandum dtd. 24-7-1987 when what was required was a de-novo inquiry which could easily be done on the basis of the earlier chargesheet. Anyway, that would be a minor thing of no consequence. It may be noted that the chargesheet dtd. 24-7-1987 is just a copy of the chargesheet dtd. 5/11-3-1980. The inquiry is still going on. It is the case of the respondents that the inquiry could not be completed earlier because of the non-cooperation of the applicant. But we feel that there are remedies in the rules for completing the inquiry expeditiously even if the delinquent does not fully cooperate. Hence, we are not inclined to grant the request of the applicant for quashing the chargesheets and the departmental proceedings which are being held de-novo.

✓ *Dm*