

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

Original Application No.760/2000

Date of Decision: 11.6.2001

CORAM: HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Mr. A.V. Redij
Pt. Supervisor
Embarkation Headquarters
Docks Branch, 'C' Team
179 P. D'Mello Road
Mumbai 400 001.

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Applicant

(Applicant by Shri K.S.Kalapura)

VS.

1. Union of India, through
the Secretary
Ministry of Defence
South Block
New Delhi 110 001.
2. The Quartermaster General
Army Headquarters
DHQ PO, New Delhi 110 011.
3. Col. Ranjit Prasad
Colonel Commandant
Arohan Mukyalaya
Embarkation Headquarters
P.B.No.331
Mumbai 400 001.

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Respondents

(Respondents by Shri R.R.Shetty, Advocate)

ORDER (ORAL)

[Per: Govindan S. Tampi, Member (A):

O.A.No.760/2000 is filed by Shri A.V. Redij seeking directions that the order dated 10.9.1999 passed by the Disciplinary Authority imposing penalty on him and the appellate order of 22.6.2000 confirming the same.

2. Heard learned Counsel for both the parties - Shri K.S. Kalapura and Ms. Vineeta T for the Applicant and Shri R.R.

Shetty for the Respondents--. The Applicant working as Pt. Supervisor in the Embarkation Headquarters, Mumbai is also Vice President of the Embarkation Headquarters Bombay Civilian Employees' Union. He states that annoyed by the action taken by the General Secretary of the Union, for redressal of the genuine grievances of the staff and his suggestions for improving the working of the Department, the respondents have initiated proceedings against him by charge sheet dated 30.7.1999. In spite of his reply dated 18.8.1999 denying the charges against him the Disciplinary Authority has imposed on him the penalty of "withholding of his next one annual increment due on 01st Feb 2000, for a period of one year without any cumulative effect". The appeal filed by him against the same on 30.10.1999 has been disposed of by the appellate authority on 22.6.2000 rejecting it. Hence this application.

3. During the oral submissions today, Shri K.S. Kalapura learned Counsel for the Applicant states that the proceedings had been initiated against him not for any alleged irregularity committed by him while discharging his official functions but on the alleged misconduct that he was a party to the action of the General Secretary of the Union of which he was the Vice President, that he had reportedly used intemperate and incorrect language. It was wrong on the part of the respondents to implicate him as he had not done anything incorrect and initiating disciplinary proceedings for actions done in the capacity of office bearer of a representative staff Union was not correct as the same should have been dealt with under the

provisions dealing with Trade union activities which the Respondents were not empowered to do. The respondents have acted improperly and the impugned action of theirs deserved to be set aside, argues the learned Counsel.

4. Contesting the above, Shri R.R. Shetty, learned Counsel for the Respondents states proceedings have been initiated against the individual for being an active party and supporter of the intemperate language used by the Union of which he was the Vice President, in which he also indulged showing, thus that he had failed to act in a manner unbecoming of a disciplined Govt. Servant. The action taken by the respondents was procedurally and legally correct and the penalty imposed was only the minor penalty of withholding of one increment for a year without cumulative effect. There was no warrant for interference in this case, pleads Shri Shetty.

5. I have carefully considered the matter and I am convinced that the Applicant has no case. The perusal of the papers placed before me makes it clear that the chargesheet has been issued, the proceedings have been gone through and punishment has been imposed by following the Rules correctly. Since the penalty itself was a minor penalty it was not incumbent on the disciplinary authority to conduct an oral enquiry. The orders passed by the Disciplinary Authority makes it clear that it had considered the reply given by the Applicant and was convinced that the same did not absolve him from his improper action of using intemperate and incorrect language. The same has been endorsed by the appellate authority as well.

6. The Applicant has sought to explain his position by stating that what has been done by him was only in the capacity as an office bearer of the Union and not as an subordinate functionary. The same cannot be accepted as recourse to collective bargaining does not ~~endorse~~^{permit} repeated use of intemperate and improper language by the applicant. Nor can it be the applicant's case that being the officer bearer of a Union grants him immunity from action under CCS (CCA) Rules, even when his conduct becomes actionable. The disciplinary authority ~~disciplinary~~^{different} could not have taken any view in the matter ~~different~~ from what it has done. In the circumstances of the case, the Appellate authority also endorsed it and correctly too. The actions by these authority is clearly unassailable in law. It is also seen that the penalty imposed is only a very minor penalty of stoppage of the increment without any cumulative effect. There is no ground for interference by the Tribunal in this matter.

7. I am convinced that the Applicant has not made out any case for my interference. The application fails and is accordingly dismissed.

8. No costs.

9. Operative portion of the Order has been duly pronounced in the Court at the conclusion of the hearing.

(Govindan S. Tampi)
Member (A)

sj*