

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 221/2000

Date of Decision : 11.6.2003

L.N.B.Raju	Applicant
Shri S.Ramamurthy	Advocate for the Applicant.

VERSUS

Union of India & Ors.	Respondents
Shri R.K.Shetty	Advocate for the Respondents

CORAM :

The Hon'ble Shri V.K.Majotra, Member (A)

The Hon'ble Shri Shanker Raju, Member (J)

- (i) To be referred to the reporter or not ? ☒
- (ii) Whether it needs to be circulated to other ☒  
Benches of the Tribunal ?
- (iii) Library *Yes*

*V.K. Majotra*  
(V.K. MAJOTRA)  
MEMBER (A)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.221/2000

Wednesday this the 11th day of June, 2003.

CORAM : Hon'ble Shri V.K.Majotra, Member (A)

Hon'ble Shri Shanker Raju, Member (J)

L.N.B.Raju,  
R/at C/O. Nanchariah,  
Shree Nilayam, Kamalakar  
Nagar, Kohgaon,  
Ambernath.

...Applicant

By Advocate Shri Sai Ramamurthy

vs.

1. Union of India  
through the Secretary,  
Ministry of Defence,  
Govt. of India,  
South Block, New Delhi.

2. The Chairman,  
Ordnance Factories Board,  
7-A, Shaheed Khudiram Bose Marg,  
Calcutta.

3. The General Manager,  
Ordnance Factory,  
Ambernath.

Respondents

By Advocate Shri R.K.Shetty

O R D E R (ORAL)

{Per : Shri V.K.Majotra, Member (A)}

Applicant has assailed penalty of removal from service imposed on him in disciplinary proceedings initiated against him vide Memorandum dated 21.7.1997 under Rule 14 of the CCS (CCA) Rules, 1965.

..2/-



2. The applicant had been working as Dealing Clerk in Pay Bill Section from March, 1987. The following charge was levelled against him :-

"That the said Shri L.N.B.Raju, LDC, Ordnance Factory Ambernath (now under suspension) while functioning as LDC in the Bill Group Section of the factory with effect from 24.1.87 and assigned the task of preparing regular monthly pay bills in respect of the category of Chargeman Gr.II (NGO Part-II) of the factory committed gross irregularities by fraudulently including undue and unauthorised amounts for payment in favour of nine Chargeman Gr.II, in several instances and on various occasions in the regular pay bills of Jul 94, Sep 94, Oct 94 to Dec 94 and Jan 95.

Shri Raju has thus shown dishonesty and conduct unbecoming of a Govt. servant. He failed to maintain devotion to duty and violated rule 3 (1) (i), (ii) & (iii) of CCS (Conduct) Rules, 1964."

The Enquiry Officer found him guilty of the charge. A copy of the enquiry report was supplied to him. He submitted his representation on 2.11.1998.

3. Learned counsel of the applicant has made the following submissions :-

(i) Applicant has been issued two chargesheets, one on 8.5.1996 and another on 21.7.1997 on identical charges and as such, the issuance of the second chargesheet is illegal.

(ii) It is a case of no evidence.

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(iii) Applicant had asked for copies of statements recorded in the preliminary enquiry as also the report of the preliminary enquiry which became the basis for charges against the applicant. However, these were not supplied to him, thereby, his case was prejudiced.

(iv) There were 7 Dealing Clerks in Pay Bill Section; each Clerk was assigned the job of preparing pay bills of various categories of staff like Chargeman II, Chargeman I, Gazetted Officers, Supervisors, Fire Brigade, School Staff, etc. The applicant was in-charge of preparing the pay bills in respect of Chargemen Gr.II. The system of preparation of pay bills involved use of single floppy by all the Dealing Clerks for the respective sections. There was no secret password for entering or exiting from the floppy. Learned counsel relied on Exhibit-'K' relating to statement made by Shri S.Venkataraman, JWM/EDP on 27.9.1996 in the disciplinary proceedings against the applicant in the other chargesheet dated 8.5.1996. He has stated therein that "Till the pay-roll processing is complete, it is possible to make corrections/alterations". Thus, applicant should not be held responsible for a commission of irregularities in the pay bills.

(v) The check-list had not been produced by the respondents being not available.

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(vi) In the enquiry related to chargesheet dated 8.5.1996, the enquiry officer had held him guilty for excess payments on the basis of bills prepared by him, however, the motive to commit these irregularities was not established.

4. On the other hand, the learned counsel of the respondents contended that the applicant cannot be permitted to rely on what transpired in the disciplinary proceedings against him on the basis of chargesheet dated 8.5.1996. The merit of the case has to be restricted to the disciplinary proceedings relating to the chargesheet dated 21.7.1997. Learned counsel particularly referred to the applicant's representation dated 8.1.1999 against the enquiry report (a) in which the applicant had clearly admitted his negligence and occurrence of misconduct alleged against him. The relevant portion of the said representation is as follows :-

"Sir, how it has happened, I am not aware of it. If I could get any clue or knowing anything, I would have brought it to the knowledge of the court of enquiry during the proceedings to protect my self and to nullify the charges. But Sir, it is crystal clear and naked truth that I am also in dark yet and could not come to any conclusion how it has happened.

The only and factual position known to me is that if I might have checked the bill before forwarding to the AO thoroughly, I could have noticed it and it might have been corrected there itself. This is the only failure on my part, the one and the only reason known to me because of which the bill with the undue amounts submitted to AO through me.

This is only because, I blindly relied upon the check list and the corrections made by me before print out of final bill and in good faith, I assumed as it may be the same and hence, much care and attention has not been paid to check perfectly and fully by me."

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Learned counsel also stated that after admitting his guilt as above, applicant had solicited mercy for the disastrous consequences for the family of the applicant in case of punishment imposed on him. Learned counsel also stated that issuance of the second chargesheet involving facts different than the first chargesheet is not illegal; examination of the applicant is permissible under the rules; not only that evidence is available against the applicant, he has admitted the charges against him. The statements made in the preliminary enquiry were supplied to him. The report of the preliminary enquiry was neither relied upon by the respondents nor was it necessary to supply him a copy of the same. In the enquiry relating to chargesheet dated 8.5.1996 final orders have not been passed by the disciplinary authority and therefore the findings of the enquiry officer as also evidence recorded in those proceedings cannot be availed of by the applicant in the present case.

5. We have perused the contents of chargesheets dated 8.5.1996 and 21.7.1997. We find that they are not identical; the periods of misconduct in both the chargesheets are entirely different. As such, in our view, there is no illegality in the chargesheet dated 21.7.1997 despite pendency of the disciplinary proceedings based chargesheet dated 8.5.1996.

6. From the records it is clear that copies of the statements made in the preliminary enquiry have been made available to the applicant, however, report in the preliminary enquiry was not provided to the applicant. We also find that respondents have neither relied upon the report in the preliminary enquiry in bringing home the allegations against him nor has any prejudice been caused to the defence of the applicant by the non supply of the report in the preliminary enquiry.

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7. Applicant's reliance on the statement of Shri Venkataraman made in the other disciplinary proceedings against the applicant relating to chargesheet dated 8.5.1996 regarding possibility of manipulation of the check-list cannot be relied upon in the present case as no conclusions have been drawn by the disciplinary authority in that case and the enquiry has yet not been finalised. Also exoneration by the enquiry officer in the disciplinary proceedings relating to chargesheet dated 8.5.1996 cannot have any bearing on adjudication in the present matter as that enquiry has yet not been concluded. As regards non availability of check-list and layout, it is found from the record that layout and check-list remained with the Dealing Clerk i.e. the applicant himself. The applicant being the dealing hand for NGO Part-II was in custody of such documents. In any case, the applicant has admitted that he blindly relied on the check-list and we do not have to go into the correctness of the charge. We further find that the authorities have gone into the question of proportionality of punishment vis-a-vis the charges proved against the applicant. The applicant has also not established any malafides against the respondent authorities.

8. Keeping in view the totality of facts and circumstances as discussed above, we do not find any infirmity in the disciplinary proceedings against the applicant and as such the OA. must fail. The OA. is dismissed with no costs.

S. Raju

(SHANKER RAJU)

MEMBER (J)

V.K. Majotra

(V.K. MAJOTRA)

MEMBER (A)

mrj.