

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 46/2000

MONDAY, THE 29TH DAY OF AUGUST, 2001

CORAM: SHRI JUSTICE ASHOK AGARWAL. CHAIRMAN
SMT. SHANTA SHASTRY. MEMBER (A)

Shri Shalikrao Wamanrao Patil,
working as EDBPM, Bramhane (EDBO),
Post Office, Dondaiacha,
district Dhule-425 408. ... Applicant

By Advocate Shri V.M. Bendre

Versus

1. Union of India, through
the Chief Post Master General,
Maharashtra Circle, Old GPO Building,
CST, Mumbai-400 001.
2. Shri N. Vithal, Commissioner,
Central Vigilance Commission,
Satarkata Bhavan, Block-A,
G.P.O. Complex,
New Delhi-110 023.
3. Shri Indibar Devri, DDG,
Vigilance, Department of Posts,
Dak Bhavan, Sansad Marg,
New Delhi-110 002.
4. Shri V.A. Bhamare,
Retired Senior Superintendent of Post Offices,
through the Chief Post Master General
(Respondent No.1),
Old GPO Building,
Mumbai CST-400 001. ... Respondents

By Advocate Shri V.S. Masurkar for R1, 2 & 4.

...2.

O R D E R (ORAL)

Smt. Shanta Shastry.

... Member (A)

In this OA the applicant had challenged the charge sheet issued to him vide order dated 7.4.2000 and has prayed to quash and set aside the same and pending final disposal, to stay the operation of the charge sheet issued to the applicant.


2. The applicant is the Secretary and office bearer of the Bharatiya Extra Departmental Employees Union and is also the official representative of the Union. According to the applicant this charge sheet is a malafide charge sheet issued by the Respondent No.4 against whom he had made complaints of corruption. In response to a communication displayed on the notice board inviting complaints regarding bribes on information on corruption in the concerned office dated 7.10.99. the applicant submits that he did make some complaints against Respondent No.4 and the same was registered on 26.2.1999. Because of this, the applicant submits that the Respondent No.4 acted in a malafide manner by issuing the impugned charge sheet to him.

3. The charge sheet has been issued to the applicant on the allegation that during the period that he was working as Divisional Post Master, he had given a news in the Newspaper 'Deshvrutt' under the title

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"Illegalities in the Postal Assistants' examination and demand of inquiry thereof" and with this news he has attached official information / documents without taking prior permission of the superiors. He has also made defamable charges against the Senior Superintendent of Posts, Dhule. Thus, the applicant has violated Rules 20, 22 and 24 of the EDA Conduct and Service Rules, 1962 as well as Rule 17. The applicant also claimed himself to be the Secretary of Bharatiya Postal Employees Federation Sangh, Dhule and had given the letter on the old letter head. He also wrote a letter to the local MLA. Thus, he tried to bring pressure through a politician. Thereafter, he was also charged under Rule 25 of the EDA Service Rules 1962. The charge sheet was issued by Senior Superintendent of Post Offices, Dhule division i.e. Respondent No.4.

4. It is the contention of the applicant that since the complaints were against Respondent No.4, the charge sheet is not maintainable as malafides are attributed against him and therefore, the charge sheet deserves to be quashed and set aside. The applicant also contended that he has not disclosed any thing that was not already published. He has merely given the details of the advertisement issued for selection for the post of Postal Assistant. He is aggrieved that he is charged that he is not a union leader. Further, the applicant has filed OA No.104/98 which is pending in the Tribunal. The Respondent No.4 had threatened the



applicant not to proceed with the OA otherwise he would come to harm and may be suspended and dismissed through disciplinary proceedings. Thus, Respondent No.4 has revenge on him by issuing the charge sheet. He has done nothing wrong, it is only out of spite that the Respondent No.4 issued the aforesaid charge sheet. The applicant relied on the judgment of the Supreme Court in the case of State of Punjab Vs. V.K. Khanna & Others reported in 2001 (1) SC (SLJ) page 47. It has been held in para 37 of this judgment that when any departmental enquiry there is bias and an element of malice or malafide motive involved in the matter of issue of a charge sheet, or the concerned authority is so biased that the inquiry would be a mere farcical show and the conclusions are well known then and in the event, law courts are otherwise justified in interfering at the earliest stage so as to avoid the harassment and humiliation of a public official. Since the Respondent No.4, according to the applicant, was biased against the applicant, the charge sheet deserves to be set aside.

4. The learned counsel for the respondents submits that, no doubt, the Respondent No.4 issued the charge sheet, however, he is no longer in service and has retired. Therefore, there is no likelihood of his influencing the enquiry. The respondents have also submitted in their written statement that whatever complaints the applicant made against the Respondent No.4, had already been looked into and examined and no

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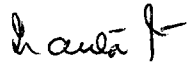
substance was found. Therefore, merely because the applicant made complaint against the Respondent No.4, the respondents have not issued the charge sheet. It is based on the fact that the applicant has violated the conduct rules of the EDA. Therefore, this has nothing to do with the complaints made against Respondent No.4. Further, the applicant will get ample opportunity to defend his case during the enquiry proceedings. It is not, therefore, desirable to quash and set aside the charge sheet at this stage.

5. We have heard the learned counsel for both the parties and have taken note of the pleadings and the judgments cited by the learned counsel for the applicant. It is settled law, that it is not for the courts to interfere at the stage of issue of charge sheet unless malafides are established or the charge sheet is vague. In the present case, it is seen from the charge sheet that it is not based on any whims and fancies of Respondent No.4, but it is based on different ground that the applicant has violated the conduct rules of EDA. Even if it is assumed for the sake of argument that Respondent No.4 did have a grudge against the Respondent No.4, now that he has retired, he will not be in a position to influence the enquiry proceedings. Therefore, the enquiry is not likely to be a mere show or the conclusions cannot be said to be well known as has been held in the judgment in the case of V.K. Khanna & Others (supra) relied upon by the applicant.

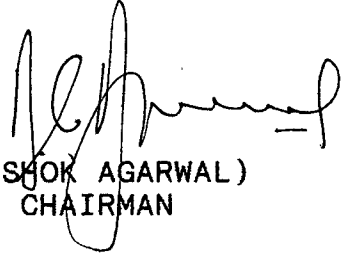
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This is distinguishable and therefore, in our considered view, the impugned order issuing charge sheet to the applicant does not call for any interference at this stage. Accordingly, the OA is dismissed. No costs.



(SHANTA SHASTRY)
MEMBER (A)



(ASHOK AGARWAL)
CHAIRMAN

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