

Central Administrative Tribunal, Mumbai Bench

Dy. No. 1777/2001 OA 448/2001

Mumbai this the 25th day of June, 2001.

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mrs. Shanta Shatry, Member (A)

Kali Ram Kataria
R/o Quarter No.116 Type-IV now working
as Senior Administrative Officer,
Geological Survey of India,
Seminary Hills, Central Region,
Nagpur.

...Applicant

By Advocate: Shri U. Rudra.

Versus

1. Union of India
through the Secretary,
Ministry of Mines and Minerals,
New Delhi.
2. The Director General,
Geological Survey of India,
4, Chorangi Lane,
Calcutta-700016.
3. The Deputy Director General,
Geological Survey of India,
Central Region,
Seminary Hills,
Nagpur.
4. The Secretary,
Ministry of Finance,
Department of Revenue,
New Delhi.
5. Shri C. Bhattacharya
Director (Geological)
CVO, GSI CHQ,
Calcutta.

...Respondents

By Advocate: Shri V. S. Masurkar.

ORDER

Hon'ble Mr. Kuldip Singh, Member (J)

The applicant in this case has impugned memo
of charges dated 14.2.2001 issued to him by respondent
No.2. For challenging the same, the applicant alleges
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that he is working as Senior Administrative Officer in the office of the Geological Survey of India (hereinafter referred to as GSI). Nagpur and his appointing authority is the President of India in terms of Rule 5 of the Act to be read with Rule 8 of the CCS (CCA) Rules, 1965. Therefore, the President of India alone is the appointing and disciplinary authority as he belongs to Group "A" of the Central Civil Services and in accordance with Rule 13 of the CCS (CCA) Rules, 1965 and no other authority is competent to institute disciplinary proceedings against the applicant. However, under article 77-A of the Constitution of India the concerned Secretary can issue the memo of charges and institute proceedings.

2. The applicant further alleges that he was appointed as a Registrar, ATFP, New Delhi after having been selected by the UPSC but the respondent Nos. 2 and 3 did not release the applicant on the ground that some complaint is pending under investigation though there was no disciplinary proceedings. The applicant had filed an OA wherein directions were issued that till such time those directions are complied with no other person be offered the post for which the applicant was selected and the decision shall be taken not later than 3 months from the date of receipt of copy of the order passed therein. So in these circumstances and with ulterior motive, respondents have issued the memo of charges and in fact the respondent No. 2 had issued defacto memo of charges as Defence Secretary thus it is stated that the impugned order is a nullity in the eyes of law since it is not issued by the competent authority and the same is liable to be quashed.

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3. The respondents are contesting the OA. The respondents in their reply have admitted that the President of India is the competent authority for Group 'A' officers and power of initiation of disciplinary proceedings have been delegated to the Director General, GSI by the President of India as per Annexure R-I. As per the delegation the issuance of charge-sheet under the signature of respondent No.2 is valid in terms of Rule 8 and 12(2)(a) of the CCS (CCA) Rules, 1965. Hence the respondent No.2 is the competent authority to initiate disciplinary proceedings.

4. It is further stated that respondent No.2 has acted on behalf of the President of India in terms of powers of delegation under Rule 13 of the CCS (CCA) Rules 1965, thus it is valid and in accordance with law. In the annexures to this reply it is stated that they need not be signed by the disciplinary authority as per the decision of the Government of India contained in the OM dated 5.3.66.

5. We have heard the learned counsel for the parties and gone through the records of the case.

6. As regards the issuance of charge-sheet by the respondent No.2 is concerned this averment, as made by the respondents has not been controverted by the applicant by filing any rejoinder. The respondents have also annexed Annexure R-I which states that how the powers have been delegated to the respondent Nos. 2 and 3 to issue the charge-sheet. Besides that the counsel

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for the respondents have also referred to a judgment reported in 1995 SCC (L&S) 313 entitled as Transport Commissioner, Madras Vs. A. Radha Krishna Moorthy, wherein it has been held as under:-

" Departmental enquiry - Charge-sheet - Correctness of the charges - Held, not subject to judicial review prior to conclusion of the departmental enquiry - Even after the conclusion of the departmental enquiry, the scope of judicial review is restricted to charges based on no evidence - Administrative Tribunals Act, 1985 - Ss.14 and 15 - Constitution of India Article 226 - Administrative Law - Judicial Review".

7. It has also been held that "initiation of departmental enquiry by an officer of subordinate to the appointing authority, held, unobjectionable".

8. On the same lines the respondents have also relied upon another judgment reported in (1995) 29 ATC 145 entitled as Union of India and Another Vs. Ashok Kacker wherein it has been held as follows:-

" The respondent\$ has the full opportunity to reply to the charge-sheet and to raise all the points available to him including those which are now urged on this behalf. This was not the stage at which the Tribunal ought to have entertained such an application for quashing the charge-sheet and the appropriate course for the respondent to adopt is to file his reply to the charge-sheet and invite the decision of the disciplinary authority thereon."

9. The main objection taken by the applicant in this OA is that the initiation of an enquiry by an authority subordinate to the President of India is

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illegal and the charge-sheet is itself null and void. As far as that aspect is concerned, since the Hon'ble Supreme Court has held that the initiation of enquiry by a lower authority is unobjectionable as such the same has no merits because the applicant is being given an opportunity to file a reply to the Memo of Charges so to that extent the OA is premature, hence this court cannot go into that aspect at all.

10. In view of the above OA is dismissed. No costs.

Shanta Shastray
(Mrs. Shanta Shastray)

Member (A)

Kuldip Singh
(Kuldip Singh)
Member (J)

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