

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 645/2001

DATE OF DECISION: 24/6/2004

Shri Bholu Hukumchand Tamboli Applicant

Shri S.P.Saxena Advocate for
Applicant/s

V/s.

Union of India & 2 Ors Respondents

Shri R.R.Shetty P.M.Praelhan Advocate for
Respondents

CORAM:

Hon'ble Shri V.K.Majotra, Vice Chairman

Hon'ble Shri S.G.Deshmukh, Member(J)

(1) To be referred to the Reporter or not?

No

(2) Whether it needs to be circulated to
other Benches of the Tribunal?

No

(3) Library. Yes.

V.K.Majotra
(V.K.MAJOTRA)
VICE CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:645/2001
DATED THE 24TH DAY OF JUNE,2004.

CORAM:HON'BLE SHRI V.K.MAJOTRA, VICE CHAIRMAN
HON'BLE SHRI S.G.DESHMUKH, MEMBER(J)

Shri Bhola Hukumchand Tamboli,
at C/o.243, Somwar Peth,
Pune - 411 001.

... Applicant

By Advocate Shri S.P.Saxena

V/s.

1. Union of India,
through Ministry of (I&B),
Information and Broadcasting,
Government of India, New Delhi.
2. The Director,
Song & Drama Division,
Ministry of I & B, having office
at CGO Complex, Soochna Bhavan,
Lodhi Road, New Delhi-110 003.
3. The Regional Dy.Director,
Song & Drama Division,
Government of India,
Ministry of I & B, Arneshwar Corner,
Pune-Satara Road, Behind Lokesh Lodge,
Parvati, Pune - 411 009.

... Respondents

By Advocate Shri ~~R.R.Shetty~~ *P.M.Pradhan*

(ORAL)(ORDER)

Per Shri V.K.Majotra, Vice Chairman

Applicant has assailed punishment of compulsory retirement in disciplinary proceedings. He has sought its quashment and consequential benefits of salary, etc. The following allegations had been made against the applicant vide memorandum dated 12/11/1999.

"Article - 1 Shri B.H.Tamboli, Stenographer Grade-III, Song & Drama Division, Pune who has a spouse living named Smt.Sushila Bhola Tamboli, had entered into bigamous marriage with another lady named 'Vimal', produced three illegitimate girl children from such marriage during the ...2.

:2:

existence of his earlier marriage with lady name 'Sushila'. By doing so, he has violated Rule 21(2) of CCS (Conduct) Rules, 1964 and thus acted in a manner unbecoming of a Government Servant.

Article - II Shri B.H.Tamboli, Stenographer, S&DD, Pune neglected his family (wife and son). He has declared Smt.Vimal with whom he had entered into bigamous marriage and children born from the illegal marital relationship with her as his nominees for various terminal benefits such as GPF, etc against Rule 5 of General Provident Fund (Central Services) Rules, 1960. By doing so, he has acted in a manner unbecoming of a Government Servant and thus violated Rule 3(1)(iii) of CCS (Conduct) Rules, 1964.

Article - III Shri B.H.Tamboli, Stenographer GRade-III, S&DD, Pune had preferred a fraudulent LTC claim. Submitting a fraudulent LTC claim attracts the provisions under Rule 16 of CCS (LTC) Rules, 1988. By doing so, he has acted in a manner unbecoming of Government Servant and thus violated Rule 3(1)(i)(iii) of CCS (Conduct) Rules, 1964.

Article - IV Shri B.H.Tamboli, Stenographer Grade-III S&DD, Pune had obtained CGHS index card for such children who are not his legitimate children. He has also misused the CGHS benefit available to him by procuring CGHS index card in the name of his wife and son who were not actually staying with him with an aim to use the index card issued in the name of his wife i.e Smt.Sushila Tamboli for Smt.Vimal Bhola Tamboli. By doing so he has acted in a manner unbecoming of a Government servant and thus violated Rule 3(1)(i)(iii) of CCS (Conduct) Rules, 1964."

2. The Enquiry Officer vide his report reached the following conclusions/findings:-

- "1. Charge No.1 relating to bigamy against CO is held not proved. What is, however proved is that CO has been living with a lady named Smt.Vimal Bhola Thamboli for about last 20 years and produced three girl children from his relation, which is a case of moral turpitude on his part.
2. Charge No.II is held proved partially
3. Charge No.III is held proved.
4. Charge No.IV is held proved partially to the extent that the action of CO in obtaining the CGHS card in the names of non-eligible persons is not correct. However, the charge that CO has misused the medical facility in the name of his wife Smt.Sushila Tamboli is not proved."

...3.

3. In his representation against the enquiry report, applicant had denied the charges except one i.e. LTC claim for his mother which he accepted as a mistake. Applicant made a representation against the report of the Enquiry Officer which was considered by the disciplinary authority who agreeing with the findings of the Enquiry Officer and observing that Charge No.II and III were very serious, inflicted upon the applicant the penalty of compulsory retirement with immediate effect.

4. Learned counsel of the applicant contended that applicant's wife Smt.Sushila Tamboli, is permanently settled at M. is continuously receiving maintenance as per orders of the Court and applicant's relationship with Mrs.Vimal is merely his personal matter. As such applicant is not guilty of moral turpitude. Learned counsel stated that in the enquiry charge of bigamy has not been proved. On the other hand learned counsel of the respondents stated "it is proved beyond doubt that applicant has been living with a lady named Smt.Vimal Tamboli for the last about 20 years and produced three female children from his relationship with her. This relationship is admitted by the applicant and it is a case of moral turpitude on his part. The Department enquiry against the applicant has been conducted in terms of the prescribed procedure and provisions of rules. Applicant has not even appealed against the orders of the disciplinary authority. In this manner he has not resorted to the remedies available with the department before approaching this Court.

5. According to the respondents the charge of moral turpitude against the applicant is proved on the basis of service records of Smt.Vimal Bhola Tamboli, LTC claims submitted by

b :4:

Smt. Vimal Bhola Tamboli. In Application forms of admission of applicant's daughters in the school, CGHS CARD, Ration Card, Official records, LTC claims ^b ~~submitted by the applicant~~ ^b show that girl children are his daughters. Applicant calls his relationship with Smt. Vimal Bhola Tamboli as "High Standard Social Relationship and the Girl children as his deemed daughters."

6. We do not deem it appropriate to reappraise^a the evidence produced in the disciplinary proceedings against the applicant but we find that sufficient evidence, oral and documentary exists to establish the charges against the applicant as stated in the enquiry report as also in the orders of the disciplinary authority. The enquiry in our view has been conducted in terms of prescribed procedure as well as relevant rules. Applicant has been found guilty of serious misconduct relating to moral turpitude and other misconducts as established by the disciplinary authority. Looking to the seriousness of the misconduct, applicant has been awarded the appropriate penalty.

7. Taking into view all aspects of the matters as discussed above, we do not find any infirmity in the action taken against the applicant resulting in imposition of penalty of compulsory retirement. Accordingly, this OA is dismissed being devoid of merit, however without any costs.


(S.G. DESHMUKH)
MEMBER(J)

abp


(V.K. MAJOTRA)
VICE CHAIRMAN

24.6.04