

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH: BANGALORE

DATED THIS THE 19TH DAY OF FEBRUARY, 1987.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy,

.. Vice-Chairman.

And:

Hon'ble Mr. L.H.A. Rego,

.. Member(A).

APPLICATION NUMBER 1225 OF 1986.

K.N. Mukund Rao,  
Store Keeper, Central Poultry  
Breeding Farm, Hesaragatta 562 113,  
Bangalore North.

.. Applicant.

(By Sri M.S. Nagaraja, Advocate)

v.

1. The Director,  
Central Poultry Breeding Farm,  
Hesaragatta, Bangalore North.
2. Government of India  
by its Secretary, Ministry of  
Agriculture, (Department of Agriculture  
and Co-operation) New Delhi.
3. Joint Secretary to Government,  
Ministry of Agriculture,  
Department of Agriculture and Co-Operation,  
Krishi Bhavan, New Delhi.

.. Respondents.

(By Sri D.V. Shylendra Kumar, Standing Counsel)

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This application coming on for hearing this day, Vice-Chairman made the following:

ORDER

In this transferred application received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act, 1985 ('the Act') the applicant has challenged order No. 17013/3/81-AVU dated 16-12-1981 of Government of India (Annexure-K), Order No. 16013/3/80-AVU dated 7-5-1981 (Annexure-J) of the Joint Secretary to Government of India ('JS') and Order No. 5(48)/76/Estt./2571 dated 31-12-1979 (Annexure-H) of the Director of Central Poultry Breeding Farm,

Hessarghatta, Bangalore ('Director').

2. At the material time, the applicant was working as a Store Keeper in the office of the Director. In exercise of the powers conferred on him by the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ('the Rules'), the Director initiated disciplinary proceedings against the applicant and on 15-11-1976 served the articles of charges and statement of imputations on him, containing as many as 7 charges. Charge No.5 that has ultimately survived reads thus:


Shri K.N. Mukunda Rao, Store Keeper, during September, 1976 took 100 quintals of Yellow Maize and kept in the stores of the Central Poultry Breeding Farm without the knowledge or intent from the competent authority from the Red Dain Project, Hesseraghatta. This was noticed subsequently on verification.

Sri K.N. Mukundarao, Store Keeper by his above acts exhibited lack of subordination, integrity, discipline, conduct and unbecoming of a Government Servant thereby violating Rule No.3 of the CCS(Conduct)Rules, 1964.

Since the applicant denied this and other charges, the Director appointed one Sri R.S. Sood, an Under Secretary to Government as the Inquiry Officer (IO) who held a regular inquiry and submitted his report on 29-8-1978 exonerating the applicant on charges 1 to 4, 6 and 7 however, holding him guilty of Charge No.5 in these words:

" No witness was produced in support of this charge but the stock register containing a note from the Director dated 7th October, 1977 to the effect that on scrutiny of the correspondence and the records it was observed by him that there was no evidence of authorisation to the store keeper to receive any more maize than 6 tonnes, whereas the stock register showed a receipt of 10 tonnes of maize surplus to the intent placed on regular contractors for the period from 4th September to 17th September, 1976. A copy of the relevant portion from the stock register was filed (P.W.II)."

On his concurring with this and other findings of the IO, the Director on 31-12-1979 (Annexure-H) inflicted the following penalty:



" Now there in exercise of the powers conferred by Rule No.11(iv) of the Central Civil Services (Classification, Control and Appeal) Rules 1965, the undersigned hereby imposes on said Shri K.N.Mukundarao Store Keeper the penalty of withholding of one grade increment with commulative effect."


Aggrieved by this order, the applicant filed an appeal before the JS who by his order dated 7th May,1981 dismissed the same. Aggrieved by the said orders of the JS and the Director, the applicant filed a review petition under Rule 29 of the Rules before the President of India, who by his order dated 16-12-1981 (Annexure-K) dismissed the same. In Writ Petition No.6208 of 1982, the applicant challenged the said orders before the High Court which on transfer is now registered as Application No.1225 of 1986.

3. The applicant has challenged the orders on more than one ground which will be noticed and dealt by us in due course. In justification of the orders made, the respondents have filed their reply.

4. Dr.M.S.Nagaraja, learned counsel for the applicant, contends that the inquiry held, report submitted by the IO and the orders made thereon relying on 'stock register' Exhibit-P2, without disclosing the same in the List of documents annexed to the charge memo and without even conforming the same to the applicant, in the course of the inquiry, was in contravention of the principles of natural justice and was illegal.

5. <sup>Dr</sup> ~~Mr~~ D.V.Shailendra Kumar, learned Additional Central Government Standing Counsel appearing for the respondents refuting the contention of Dr.Nagaraja, contends that the admission of stock register Exhibit P-2 and reliance on the same were legal, valid and do not vitiate the inquiry and the orders.

6. Along with the charge memo and the statement of imputations



the Director furnished a list of documents to the applicant as required by Rule 14 of the Rules. In the charge memo, the statement of imputations or in the list of documents, the Director did not refer and rely on the 'stock register', Exhibit-P2 on the basis of which only the IO had recorded his adverse finding against the applicant. Even in the course of the inquiry the IO did not confront the same to the applicant. But, still the IO relied on the same and recorded his finding on Charge No.5. An examination of the original records produced before us only confirm our earlier conclusions. If this is the position, then it is clear that the reliance placed by the IO on the stock register and the adverse finding recorded by him on Charge No.5 against the applicant was in contravention of the principles of natural justice and illegal. Unfortunately this serious defect that vitiated the inquiry and finding of the IO had been glossed over by all the authorities. We are of the view that this defect, that was fatal, vitiates the inquiry on Charge No.5 and the orders made thereon. On this short ground, the impugned orders are liable to be interfered with, without examining all other grounds or their justification urged by the parties before us.

7. We have found that the proceedings are liable to be quashed on a procedural irregularity and illegality. On this view, Sri Shylendra Kumar<sup>ac</sup>, urges that we should reserve liberty to the disciplinary authority, to hold a fresh inquiry on Charge No.5 and complete the same in accordance with law which is opposed by Dr.Nagaraja.

8. We have earlier noticed that the incident itself relates to August-September, 1976. With the passage of time and all other circumstances, we are of the view that this is not a fit case in which we should reserve liberty to the Director to hold a fresh inquiry on Charge No.5. We, therefore, reject the prayer made by Sri Shylendra Kumar<sup>ac</sup>.

