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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 501/91

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DATE OF DECISION 23.2.93

Shri Mayaram Lachiram Gurkha Petitioner

Shri B.B. Shukla

Advocate for the Petitioners

Versus

The Chief Superintendent Respondent
Appellant Authority, TAPS, Tarapur
and amr.

Shri J.G. Sawant.

Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri M.Y. Priolkar, Member (A)

The Hon'ble Shri V.D. Deshmukh, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(V.D. DESHMUKH)
MEMBER (J)

NS/

(07)
CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 501/91

Shri Mayaram Lachiram Gurkha

... Applicant.

V/s.

The Chief Superintendent &
Appellant Authority
TAPS, Tarapur.

The Chief Administrative Officer
Tarapur Atomic Power Station,
P.O. TAPP, Dist. Thane.

.. Respondents.

CORAM: Hon'ble Shri M.Y. Priolkar, Member (A)

Hon'ble Shri V.D. Deshmukh, Member (J)

Appearance:

Shri B.B. Shukla, counsel
for the applicant.

Shri J.G. Sawant, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 23.2.93

{ Per Shri V.D. Deshmukh, Member (J) }

The applicant who was working as Watchman in Tarapur Atomic Power Station was removed from service by the Chief Administrative Officer under the order passed on 30.12.85. The applicant filed an appeal against this order which was dismissed on 14/16.2.86. The applicant has challenged these two orders in the present application.

The memorandum of charges was issued to the applicant on 5.4.84 and according to the respondents it was accompanied by the statement of imputations of alleged misconduct. The charge against the applicant was that the LTC advance of Rs. 451/- for his travel along with members of family to his home town Dhanali was sanctioned, however when the claim put forth by the applicant was examined it was found that the ticket numbers quoted by the applicant for the journey between Bombay V.T. and Kodulaghat were ~~found to be false~~. The applicant was in the circumstances charged for preferring a false claim for LTC and having failed to maintain absolute integrity and thereby contravening the provisions of sub-rule (1)(i) of Rule 3

of the Central Civil Services (Conduct) Rules 1964.

The facts mentioned by the applicant himself in the application shows that the applicant had applied for his leave from 1.5.83 to 31.5.83 and had also applied for LTC advance of Rs. 451/- on 19.2.83. The applicant however contended that because of the alleged murder of his nephew, he could not immediately go on leave, however he sent his wife and children to his native place.

The impugned orders were challenged mainly on the ground that the memorandum of charges was not accompanied with the copy of the charge sheet or statement of imputation ^{and} of the enquiry was ^{held} ~~taken~~ in English resulting in prejudice to the applicant who did not follow the English language. The memorandum of charge, copy of which is attached to the application shows that it was accompanied by the Hindi translation. The respondents have stated in the written statement that the applicant was furnished with the statement of imputation alongwith translation and all the other necessary papers. As ^{these} ~~this~~ question ^{was} ~~went~~ to the root of the matter it was expected that the applicant should have taken ^{these} ~~this~~ point ⁱⁿ in appeal or in the representation made by him on 28.2.86. However after going through the representation, the copy of which is attached to the application, we find that these points were not taken either in the appeal or in his representation. It is not open to the applicant now to raise these questions. Also we do not find any reason to dis-believe the statement made by the respondents, that the translations ^{and} and necessary papers were furnished to the applicant. It may also be pointed out that the statement of articles of charge and the statement of imputation which are attached to the application are also accompanied by translations in Hindi.

The inquiry revealed that the tickets bearing the numbers which were given by the applicant in his claim for LTC were not at all issued on 5.5.83, the date on which, as per the applicant, his family members had travelled from Bombay V.T. to Kodulaghat. It was contended on behalf of the applicant that by mistake the incorrect numbers were given in his application for the claim of LTC. In fact even this point ought to have been taken either before the Inquiry Officer or in the appeal or in the representation dated 28.2.86. However such a contention does not find place in the representation and the learned counsel for the applicant could not show that it was raised either before the Inquiry Officer or before the appellate authority.

It is also pertinent to note that although journey was undertaken between the period from 1.5.83 to 31.5.83 the applicant present^{- 24.10.83} his claim for LTC as late as on 6.10.83. Again it was ascertained from the Railways themselves that the tickets alleged to have been purchased by the applicant were not issued on the relevant date. The Inquiry Officer was therefore perfectly justified in holding that the applicant had given false ticket numbers in his claim for LTC. It is stated that as the amount of Rs. 451/-, which was given as LTC advance was not refunded it was ultimately recovered from the applicant.

The impugned orders are also challenged on the ground that the applicant was not given notice and an opportunity of hearing before the punishment was imposed by the disciplinary authority. This submission is based on the decision of the Supreme Court in Ramzan Khan's case AIR 1991 SC 471. As per this decision it is obligatory to furnish the delinquent with the report of the Inquiry Officer and offer him an opportunity

of hearing before the punishment was imposed. However the decision itself expressly states that, It shall have ^{for} prospective effect and the applicant in the present case cannot receive any benefit of that decision.

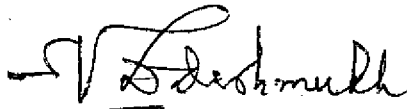
It was alleged on behalf of the applicant that in any case the punishment imposed on him was very heavy considering the charge put up against him. In the first place it is well settled that this Tribunal cannot interfere with the quantum of punishment. In the second place we find that the disciplinary authority after taking into consideration the various circumstances had come to the conclusion that the punishment of removal from service rather than dismissal should be imposed on the applicant. The written statement of the respondents however shows that while imposing this punishment several earlier incidents in which the applicant was involved, the punishments as mentioned in the written statement and other antecedents were taken into consideration and ultimately the punishment of removal was imposed on him. The punishments which were earlier imposed on him had become final when the punishment which he challenges in the present case was imposed and the disciplinary authority was perfectly justified in taking into consideration the earlier mis-conduct of the applicant and the punishments imposed on him.

In his rejoinder the applicant relies upon the circumstance that he was acquitted of criminal case No. 214/85. However the criminal prosecution and the disciplinary action by the department are entirely different processes. Apart from that the various incidents of misconduct which are mentioned in the written statement and punishments which were imposed on him would not be washed away because of the acquittal in one case. The

charge sheet which is involved in the present case has nothing to do with the incident in the criminal case in which the applicant was acquitted.

In the result we do not find any merit in the application and the application is dismissed.

There shall be no order as to costs.



(V.D. DESHMUKH)
MEMBER (J)



(M.Y. PRIOLKAR)
MEMBER (A)

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