

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 784/91

Transfer Application No:

DATE OF DECISION: 24-10-94

Shri M.R.Sadhwani

Petitioner

Shri V.M.Bendre

Advocate for the Petitioner

Versus

Union of India & Ors.

Respondent

Shri V.S.Masurkar

Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

The Hon'ble Shri P.P.Srivastava, Member (A)

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?

  
(P.P.SRIVASTAVA)

MEMBER (A)

  
(M.S.DESHPANDE)

VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY

OA.NO. 784/91

Shri Madan Roopchand Sadhwani ... Applicant

V/s.

Union of India & Ors. ... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande  
Hon'ble Member (A) Shri P.P.Srivastava

Appearance

Shri V.M.Bendre  
Advocate  
for the Applicant

Shri V.S.Masurkar  
Advocate  
for the Respondents

JUDGEMENT

Dated:

(PER: P.P.Srivastava, Member (A))

The applicant was working as a Store-Keeper in the Naval Armament Depot, Karanja. The applicant was issued a charge-sheet dated 21.7.1988 for unauthorised absence which is placed as Annexure-A-2. The applicant was charged that while functioning as Assistant Store Keeper at Naval Armament Depot, Karanja, he remained absent from duty w.e.f. 10.2.1988 till to-date without proper and prior permission. Thus he committed gross misconduct and violated Rule 3(1)(ii) and (iii) of CCS (Conduct) Rules 1964. The applicant was called for the enquiry and the enquiry was conducted and the proceedings of the enquiry are placed at Annexure-A-3. The applicant was removed from service vide order of disciplinary authority dated 17.7.1990 placed at Annexure-A-6. The applicant submitted an appeal against this order which is placed at Annexure-A-7. The appeal was rejected by the appellate authority vide their order dated 8.11.1990 placed at Annexure-A-11.

Aggrieved by the orders of removal and rejection of his appeal, the applicant has come to the Tribunal through this OA. and sought the reliefs that the order of punishment and the order rejecting the appeal may be quashed. The counsel for the applicant Mr. Bende has argued that the applicant was not given a chance to cross-examine the witness which was brought out by the presenting officer to prove the charges. The learned counsel has also brought out that the appellate authority has referred to letters which are not part of disciplinary proceedings and have nothing to do with disciplinary proceedings. The learned counsel for the applicant has also argued that the respondents have malafide intentions and have removed him from service arbitrarily without proper enquiry.

2. The counsel for the respondents Mr. Masurkar has argued that the enquiry has been conducted as per rules and there is no flaw in the disciplinary proceedings. Since the applicant has accepted that he was absent during the period as mentioned in the charge-sheet, the question of permitting the cross-examination in this case does not arise. Moreover, the applicant has not protested that he was not permitted to cross-examine the witness during the enquiry and he has accepted the proceedings. The learned counsel for the respondents has also argued that the foundation for malafide has not been laid by the applicant in the OA, and therefore it cannot be raised at this stage. On the question of using extraneous matter while deciding the departmental appeal, the learned counsel submitted that the so called extraneous matter used by the appellate authority in Para 2 (c) & (d) Departmental Appeal placed at Annexure A-11 is to comment on the points

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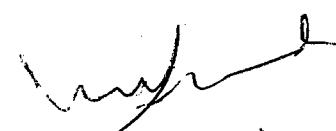
which have been raised by the applicant in his appeal and are not extraneous to the proceedings in that sense.

3. We have considered the arguments submitted by both the counsels on the points of conduct of the enquiry as well as use of extraneous matters while deciding the appeal. We are inclined to agree with the contention of the respondents that since the applicant has accepted that he was absent during the period mentioned in the charge-sheet, the cross-examination becomes irrelevant on this point. We are also inclined to agree with the argument of the respondents that the appellate authority has used the reference to certain letters which are after the period of charge-sheet to comment on certain points raised by the applicant. We are of the view that no foundation has been laid for the charge of malafide intention against the respondents. We are of the view that the applicant has not been able to bring out any material for us to interfere with the disciplinary proceedings. In the circumstances, we do not find any merit in the OA. and the same is dismissed. There will be no order as to the costs.



(P.P. SRIVASTAVA)

MEMBER (A)



(M.S. DESHPANDE)

VICE CHAIRMAN

mrj.